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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 925 OF 2018

Rajkumar Raju Tijomal Wadhwa Applicant
Vs.
The State of Maharashtra Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 969 OF 2018**

Hiranand Tijomal Wadhwa Applicant
Vs.
The State of Maharashtra Respondent

Mr.Hrishikesh Mundargi i/b Ms.Shraddha Sawant, for the Applicant in ABA/925/2018.
Mr.Shaikh Mohd. Ibrahim i/b Siddiquee & Associates, for Applicant in ABA/969/2018.
Mr.N.B. Patil, APP for the Respondent – State.
Mr.Alankar Kirpekar i/b Mr.Shekhar Bhagat , for Respondent No.2.
Mr.Dhananjay Ganage, API, Hill line Police Station, Ulhasnagar.

CORAM : M. S.KARNIK, J.

DATE : 23rd AUGUST, 2021

P.C. :

. Heard learned Counsel for the Applicants.

2. The applications are disposed of by this common order as similar allegations are levelled against the applicants in respect of FIR registered by the complainant – Ms. Bhavna Wadhawa.

3. These are the applications seeking pre-arrest bail in respect of the offences registered with Hill Line Police Station, Thane for the offences punishable under Sections 420, 465, 467, 468, 469, 471, 474 read with 120B of the Indian Penal code in respect of FIR No. I-28 of 2018 dated 05/02/2018. By order dated 03/05/2018 & order dated 09/05/2018, this Court granted interim protection to the applicants which is in operation since then. The complainant is the sister-in-law of the applicants. It is alleged that the applicants were claiming right, title and interest in the suit property bearing plot No. 32 admeasuring 1552 sq. yards situated at Industrial area, Ulhasnagar-4, District Thane. It is the complainant's case that on the basis of the gift deed registered with the Sub-Registrar, Ulhasnagar - 2 vide serial No. 4039/1982 in relation to the said property, the same has been transferred in the name of original accused no.3. The complainant obtained information under Right to Information Act, when she was informed that entry bearing no. 4039/1982 is not found in the register maintained by Sub-Registrar, Ulhasnagar - 2 and it was further informed that the last entry is 4038/1992 for that year. Therefore, it is alleged that documents like property card was forged by the applicants along with the said gift deed since the respective entry is not found in the office of the Sub-Registrar, Ulhasnagar. It is the contention of the learned Counsel

for the applicants that the said complaint is counterblast to the FIR No. 257/2016 registered against the complainant and her son at Khar police station. The complaint is registered at the instance of the applicant in ABA/969/2018. It is further submitted that the dispute is purely of civil nature between the family members and in fact, the complainant and the legal heirs of the complainant's husband had already filed a Suit for declaration and injunction before learned Civil Judge, Junior Division, Ulhasnagar bearing R.C.S. No. 327/2017 against the applicants and one more accused and the same is pending. It is submitted that the applicant in ABA/969/2018 is a senior citizen and 76 years of age.

4. I have heard learned Counsel for the parties. The letters of administration was granted in favour of the complainant and accordingly her name has been mutated and entered into in the property extract of the said plot. It is submitted by the learned Counsel for the applicants that beneficiaries in respect of the challenge to the letters of administration was the original accused No.3 i.e. their real brother - Laxmandas Wadhwa and the applicants have no concern with the same. The applicants at the behest of the accused No.3 challenged the letters of administration. The

applicants have invited the complaint only because they had challenged the letters of administration to support their brother.

5. The applicants, to show their bonafides and in support of the fact that they have no concern with the property in question, filed an undertaking to this Court, paragraphs 4 & 5 of which read thus :

"4. I say that the present F.I.R. has been filed in respect of the allegedly forged gift deed pertaining to Plot No. 32, admeasuring 1552 sq. yard situated at Industrial Area, Ulhasnagar -4 , District - Thane, it can be noticed that the main allegations and beneficiary of the offence alleged in the F.I.R. is original Accused No.3. I further say that I am not a beneficiary nor in possession with respect to the property concerning to the F.I.R. I further say that my name has only been dragged due to my relation with the Original Accused No.2 and Accused No.3 who happen to be my real brothers.

5. I further say that I had no claim, title or possession of the property concerning to the F.I.R. i.e. Plot No. 32, Industrial Area, Ulhasnagar - 4, District - Thane admeasuring 1552 sq. yards and I undertake that I will not claim any ownership or possession over Plot No. 32, Industrial Area, Ulhasnagar -4, Dist. Thane admeasuring 1552 sq. yards, through myself or any of my legal heirs."

6. The undertakings filed by the applicants are taken on record and marked 'X' for identification. The applicants

undertake to abide by the undertakings given to this Court.

7. So far as the original accused No.3 is concerned, he has since been arrested and released on bail. The challenge to the letters of administration, if it were to succeed, would have benefited the original accused No. 3. Even the certified copy of the gift deed which formed the basis for filing the application challenging the letters of administration in favour of the complainant, has been produced by the original accused No.3.

8. In compliance of the order passed by this Court on 09/05/2018, I am informed that the applicants have attended the concerned police station and co-operated with the investigation. It is further submitted that they would render all possible co-operation and would attend the police station as and when called for. In these circumstances, the custodial interrogation of the applicants is not required. Furthermore, the applicants have been granted interim protection by this Court which is in operation since 03/05/2018 & 09/05/2018. Hence, the following order.

ORDER

- i) In the event of arrest of the applicants, the applicants

be enlarged on bail in connection with FIR No. I-28 of 2018 dated 05/02/2018 registered with Hill Line Police Station, Thane on their executing PR bond of Rs.25,000/- with one or more sureties in the like amount.

ii) The applicants shall not tamper with the prosecution evidence or in any manner try to contact, intimidate, threaten the complainant or any witnesses.

iii) The applicants shall report to the concerned police station and the Investigating Officer as and when called for and co-operate with the investigation.

iv) The applicants or their family members shall not enter into the floor on which the complainant and her son is staying and shall not contact / threaten the complainant/family members.

v) The applicants shall not threaten the complainant by entering the premises of the shops No. 81 to 85 where she is carrying on business with her son. This condition is imposed as presently the complainant is in occupation of the shops in question and shall be subject to the orders of the competent civil court which may be passed.

9. The Applications are disposed of.

(M.S.KARNIK, J.)