

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

ANTICIPATORY BAIL APPLICATION NO.1786 OF 2021

Rahul Shivajirao Jadhav ...Applicant
Versus
The State of Maharashtra and Anr. ...Respondents

Mr. Aniket Nikam i/b Mr. Aashish Satpute, for the Applicant.

Ms. P. P. Shinde, A.P.P for the Respondent No.1– State.

Mr. Satyavrat Joshi, a/w Mr. Nitesh Mohite, for the Respondent No.2.

WPI - Swati V. Desai, Sahakarnagar Police Station, Pune, is present.

CORAM : REVATI MOHITE DERE, J.

***DATE : 8th OCTOBER 2021
(IN CHAMBERS)***

P.C. :

1. The matter is kept in the *Chambers*, considering the relations between the applicant and the respondent No.2/complainant i.e. of husband and wife, to explore the possibility of an amicable settlement.

2. Learned Counsel for the applicant has tendered an additional affidavit of the applicant praying for withdrawal of his undertaking. The applicant is present in *Chambers* alongwith his advocate. The applicant states that he does not wish to abide by the statement made by him to this

Court on 6th September 2021. He states that instead he will surrender before the police tomorrow i.e. 9th October 2021 at 6:00 p.m.

3. With the consent of the Counsel for the applicant and the respondent No.2/complainant as well as the applicant and the complainant, who are personally present in *Chambers*, the aforesaid application is taken up for hearing.

4. The applicant is the husband of the respondent No.2/complainant, who is arraigned as an accused in C.R. No.175 of 2021, registered with the Sahakarnagar Police Station, Pune, for the alleged offences punishable under Sections 420, 465, 467, 468, 471, 474, 506 r/w 34 of the Indian Penal Code. The applicant and the respondent No.2/complainant's marriage was solemnized in the year 2007. After marriage, the applicant had purchased certain properties in respondent No.2/complainant's name as well as in their joint ownership i.e. in the name of the applicant and the respondent No.2/complainant. According to the respondent No.2/complainant (wife), the applicant fraudulently executed a power of attorney in her name by forging her signature, in his favour and thereafter, gifted all the said 4 properties standing in the respondent No.2/complainant's name in his favour. The power of attorney dated 13th

July 2020, allegedly executed by the respondent No.2/complainant, in the applicant's favour was infact never executed by her. It appears that on the basis of the alleged forged power of attorney, the applicant registered gift deed with respect to the 2 properties standing in the respondent No.2/complainant's name and 2 properties jointly held by the respondent No.2/complainant, with the applicant in his name. The said forged power of attorney is from page nos.19 to 45 of the application and the registered Gift Deed with respect to the 4 properties mentioned in the said power of attorney are from page nos. 46 to 185 of the application. It is not in dispute that the advocate Mr. Pradeep Jadhav, who allegedly prepared the Gift Deed was arrested and was in custody for one month and the impostor who impersonated the complainant i.e. Neelam Patil, was also arrested and she was in custody for about 3 months. There is substance in the allegations made by the respondent No.2/complainant, of impersonation and forging of her power of attorney by the applicant and illegally transferring the properties standing in her name in his favour on the basis of fraudulent power of attorney.

5. This Court vide order dated 3rd August 2021, granted interim protection to the applicant and the applicant was asked to implead the complainant as party-respondent and pursuant thereto, notice was served

on the complainant. On 6th September 2021, this Court (Coram : A.S.Gadkari J.), passed the following order:-

“1. Mr.Nikam, learned counsel appearing for the Applicants, on instructions, submitted that, the Applicant Rahul Shivajirao Jadhav is desirous of setting the clock back i.e. the said Applicant will cancel the said alleged transactions which have been effected between him and the Respondent No.2 by way of various registered deeds. He submitted that, Applicant Rahul S. Jadhav will take all the necessary steps within a period of four weeks from today.

2. Respondent No.2 – Smt.Kavita Rahul Jadhav is personally present in the Court and through her counsel Mr.Joshi acceded to the said suggestion given by Mr.Nikam, learned counsel for the Applicants, in that behalf.

3. With a view to observe the compliance of statement made by the Applicant Rahul S. Jadhav, hearing of present application is deferred upto 6th October 2021.

4. It is made clear that, if the Applicant Rahul S. Jadhav fails to honour the statement made before this Court today, this Court may be constrained to dismiss his application on that count alone.

5. Stand over to 6th October 2021.

*6. Interim relief, if any, to continue till the next date.”
(emphasis supplied)*

6. On the last date, the learned counsel for the complainant filed an affidavit of the respondent No.2 stated therein that apart from forging the respondent No.2/complainant's signature on the power of attorney and subsequently transferring the properties in the applicant's name, the applicant has also forged the power of attorney of his mother. The

respondent No.2/complainant has annexed certified copy of the said power of attorney. The person who has impersonated the applicant's mother, is the applicant and the complainant's maid servant/domestic help viz. Bharati Ingale.

7. Learned Counsel for the applicant has tendered an additional affidavit of the applicant wherein the applicant has stated that he intends to withdraw his undertaking as mentioned in para 9 of the applicant's anticipatory bail application as well as reflected in the order passed by this Court dated 6th September 2021. The applicant is present in person. He states that he does not wish to pursue this application on merits and that he will surrender before the police tomorrow i.e. 9th October 2021 at 6:00 p.m. Statement accepted. Infact, this Court vide order dated 6th September 2021, had observed that in case the applicant fails to honour the statement made before this Court today, this Court may be constrained to dismiss his application on that count alone.

8. Be that as it may, even on the merits, the facts, clearly show the applicant's complicity in the alleged offence i.e. of forging power of attorney of the respondent No.2/complainant and thereafter transferring the properties standing in the respondent No.2/complainant's name, by Gift

Deeds. In the facts, custodial interrogation of the applicant is necessary. The applicant stands rejected and is disposed of as such.

9. The applicant to abide by his statement that he will surrender before the police tomorrow i.e. 9th October 2021 at 6:00 p.m. The interim relief granted by this Court stands vacated.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.