

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

CRIMINAL APPLICATION NO. 320 OF 2017

Humaid Mohammed Humaid Mohammed
Shattaf

.... Applicant

v/s.

Farida Mohammed Shattaf and anr.

.... Respondents

Mr. Sushil Matkar i/b. CORPS Legal for the Applicant.
Mr. P.H. Gaikwad, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 16th SEPTEMBER, 2021.

P. C. :-

. This is an Application under Section 439(2) of Cr.P.C. seeking cancellation of Anticipatory Bail granted to Respondent No.1 by the order dated 15/04/2017 passed by the learned Additional Sessions Judge, Pune in Criminal Bail Application No.745/2017.

2. Heard Mr. Sushil Matkar, learned counsel for the Applicant and Mr. P.H. Gaikwad, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The Applicant is a resident of UAE. He claims that he is the

Chairman of Shattaf Group of Companies having its office at Dubai, U.A.E. Mohammed Humaid Mohammed Shattaf, the father of the Applicant expired on 25/03/2003. During his lifetime, the father of the Applicant had purchased two flats at Village Khandala, Pune and had constructed bungalows therein. Upon the death of said Mohammed Humaid Mohammed Shattaf, the legal representatives have applied to Ministry of Justice, Islamic Affairs and Religious Endowments, Justice Sector, Sharjah Islamic Sharia Court, U.A.E. for transfer of his estate according to Shariat law. The Respondent No.1 and her son claim to be the heirs of said Mohammed Humaid Mohammed Shattaf and claim right to his property. The Applicant claims that the Respondent No.1 and her son have created false and fabricated marriage certificate and gift deed. Since the police had not acted upon the complaints lodged by him, the Applicant filed a private complaint before JMFC Vadgaon. Pursuant to the order passed under Section 163, MECR has been registered against the Respondent No.1 and her son for offences under Sections 406, 420, 465, 468, 471 and 474 r/w. 120-B and 34 of the Indian Penal Code. The Respondent No.1 apprehended her arrest in the said crime being MECR No.13/2014 arising out of RCC No.474/2014 and therefore, filed an Application under Section 438 of Cr.P.C.

4. The learned Judge referred to the judgment of Hon'ble Sharjah Shariah Court of UAE in respect of certification of Succession and Guardianship, inheritance Certificate and held that the Respondent No.1 and her son have been declared to be legal heirs of Mohammed Humaid Mohammed Shattaf. The learned Judge has referred to the judgment of Supreme Court of UAE holding the *Nikahnama* of the Respondent No.1 as valid. The learned Judge has also held that the oral gift which was later reduced into writing is signed and accepted by the Respondent No.1 and her son by executing deed of declaration. The learned Judge has also taken note of the fact that the names of Respondent No.1 and her son are mutated in the revenue records in respect of plots at Khandala and that the challenge to this mutation entry was dismissed by the Revenue Authority. The learned Judge has also observed that the Applicant herein had filed a suit for declaration that he is the owner of the property at Khandala and that the Respondent No.1 is not the legal heir of deceased Mohammed Humaid Mohammed Shattaf and that the Civil Suit is pending. The learned Judge has therefore held that the dispute is basically of civil nature and that charge sheet has already been filed. The learned Judge also took note of the fact that the Respondent No.1 is a lady of 68 years of age and considering the above facts, allowed the Application

under Section 438 of Cr.P.C.

5. A perusal of the records prima facie indicates that the dispute between the Respondent No.1 and the Applicant is of civil nature. Both are claiming to be legal representatives of Mohammed Humaid Mohammed Shattaf. The Civil Suit filed by the Applicant for declaration that the Respondent No.1 is not the legal representative of Mohammed Humaid Mohammed Shattf and that he is the exclusive owner of the property at Khandala, is pending.

6. Considering the nature of the accusations, in my considered view, the learned Judge was justified in granting pre arrest bail. The impugned order is not perverse and does not suffers from infirmity. Furthermore, the records reveal that the charge sheet is filed and the presence of the Respondent No.1 is not required for the purpose of interrogation. She has not misused the liberty and has not violated the terms and conditions of the order. Under the circumstances, no grounds made out for cancellation of bail. Hence, the Application is dismissed.

PREETI
H JAYANI

Digitally signed by
PREETI H JAYANI
Date: 2021.09.23
14:47:24 +0530

(SMT. ANUJA PRABHUDESSAI, J.)