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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2726 OF 2021**

RAJKUMAR VASHUMAL KISHNANI
AND ANR.

....ApplicantS.

V/s

THE STATE OF MAHARASHTRA

.....Respondent

Mr. Girish Kulkarni with Mr. N.K. Soneji i/b Kuldeep U. Nikam for the Applicants.

Ms. A.A. Takalkar, APP for the Respondent/State.

Mr. Akhil Kurade i/b Manoj Harit & Co. for the complainant/Intervener.

API Mahesh Bandgar, Central Police Station, Ulhasnagar, present.

CORAM: NITIN W. SAMBRE, J.

DATE: DECEMBER 01, 2021

P.C.:-

1] Both the Applicants are seeking pre-arrest bail in Crime No.353 of 2021 registered with Central Police Station, Thane for the offence punishable under Sections 406, 420, 467, 468, 471 r/w Section 34 of the Indian Penal Code.

2] Complainant Ramesh is a real younger brother of the Applicants. Father Vashumal alleged to have expired on 17/1/2019, whereas mother Laxmibai on 18/3/2018.

3] It is claimed that both, father and mother, executed registered Will dated 3/1/2019, 3/3/2018 respectively and also notarized gift deed dated 7/2/2018 and 30/1/2017 respectively.

4] The bone of contentions in the complaint is, document i.e. Will is forged. Documents were shown to have been executed just about 15 days before death of father and mother. It is also claimed in the complaint that the said forgery is committed by the Applicants, thereby demonstrating that, by Will in question, property has gone to the share of the Applicants so as to deprive the complainant of the original claim pursuant to the provisions of the Hindu Succession Act.

5] While making out a case for grant of bail, Mr. Kulkarni, learned Counsel for the Applicants would urge that based on the Will already probate proceedings are pending in the Court of Civil Judge, Senior Division, Kalyan being MA 575 of 2019. He would urge that both the Wills were lodged for registration under the signature of respective parties including that of the complainant and the fact that there was Will in existence and such Will is required to be registered is apparent

from the signature of the complainant on the registration papers.

6] In the aforesaid backdrop, he would urge that subsequent documents/understanding entered into between the parties on 25/1/2021, affidavit of the Applicants dated 25/1/2021 confirming contents of MOU dated 25/1/2021 sufficiently speaks that there was no criminal element on the part of the Applicants of commission of crime in question. He would further claim that even if it is alleged that Notary before whom documents were notarized is not traceable, Applicants are not the persons who got the documents notarized, as it as brother-in-law (husband of the sister of the Applicants) who had drafted and processed the same.

7] While countering the aforesaid claim, contentions of learned APP assisted by Counsel for the Complainant Mr. Kurade are, entire execution of the MOU, presentation of the Will for registration is by practicing a fraud. It is claimed that efforts made by Investigating Agency to trace the Notary are not fruitful, as Notary himself is not in existence as his license to practice as a Notary was terminated and came to an end in March, 2018. It is further contention of learned

APP that custodial interrogation of the Applicants is necessary to find out as to the mode and manner in which the forged documents are executed and brought into existence and whereabouts of the Notary who has participated in the commission of crime.

8] Considered submissions.

9] Though on MOU and affidavit there appears to be the signature of the complainant so also on the Will Deed which was lodged for registration, fact remains that both the Will Deeds claimed to have been executed just 15 days before the death of father Vashumal and mother Laxmibai. Both of them i.e. father and mother died on 17/1/2019 and 18/3/2018 respectively and Wills have been claimed to have been executed by them on 3/1/2019 and 3/3/2018 i.e. 15 days prior to their death which gives strong suspicion against the Applicants. The fact that the documents aforesaid which were claimed to be notarized from the Notary who himself is not traceable can be inferred from the investigation papers. The contention of the learned APP that Applicants have tried to make the issue subjudice before Civil Court for drawing inference in their favour in present criminal

proceedings is apparent from the aforesaid documents. As such, entire suspicious conduct of the Applicants, in my opinion, disentitles them for grant of pre-arrest bail. Application as such stands rejected.

10] Ad-interim protection, as prayed, is extended by two weeks from today by way of last chance.

11] Application is disposed of.

(NITIN W. SAMBRE, J.)