

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Criminal Application (APPLN) No. 40 of 2021

Alok S/o Vasantkumar Khandelwal Vs. Vasantkumar Khandelwal & Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. N.R. Tekade, Advocate for the applicant
Mr. S.D. Sirpurkar, APP for the respondent

CORAM : MANISH PITALE, J.

DATED : JULY 08, 2021

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. This is an application seeking cancellation of anticipatory bail granted to the respondents No.1 to 3 by order dated 06/01/2021, passed by the Sessions Court, Akola.

3. This Court has perused the impugned order in detail. The applicant is the son of respondents No.1 and 2 while respondent No.3 is his sister. The criminal proceedings in the form of registration of FIR under Sections 467, 468, 471 and 420 R/w 34 of the Indian Penal Code have been initiated against respondents No.1 to 3, at the behest of the applicant. He claims that fraud was committed by the said respondents,

when the applicant was a minor, as a result of which, he had suffered loss of property, rightfully due to him.

4. It is also an admitted position that the applicant has filed a Civil Suit, pertaining to partition and other reliefs.

5. It is in this backdrop that the Sessions Court has referred to the transfers of the property made way back from 1972-73 onwards and it has been observed that the dispute appears to be of a civil nature.

6. The learned counsel for the applicant has strenuously argued that the dispute cannot be said to be of a civil nature and that the Sessions Court has not appreciated the facts in the correct perspective. It is submitted that such observations were not warranted at all. It is further submitted that the respondents No.1 to 3 have not furnished necessary documents to the Investigating Officer, as is evident from information received under the Right to Information Act, 2005.

7. Considering the undisputed position of law that parameters for considering a prayer for cancellation of bail are on a completely different footing, as compared to the question of considering grant or rejection of bail, in the facts and circumstances of the present case, this Court is not inclined to entertain the present Application. The observations

made by the Sessions Court about the dispute being of civil nature are only to examine whether custody of respondents No.1 to 3 was necessary. The life of such observations was obviously only till the date of passing of the impugned order dated 06/01/2021. The Sessions Court has imposed elaborate conditions on the respondents No.1 to 3 while granting anticipatory bail, so as to ensure that they co-operate with the investigation. This Court is also of the opinion that custody of respondents No.1 to 3 is not required, as long as they are ready to cooperate with the investigation.

8. In view of the above, the present Application is dismissed.

9. It is clarified that the observations made in the impugned order about the dispute being of civil nature shall not influence further proceedings in the criminal matter. It is reiterated that the respondents No.1 to 3 shall co-operate with the investigation, including providing necessary documents as demanded by the Investigating Officer.

10. Application is disposed of.

JUDGE