

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

CRIMINAL APPLICATION [ABA] NO. 398/2021.

Dnyaneshwar Domaji Kumbhare and two others.

-VERSUS-

State of Maharashtra, through P.S. Kondhali, District Nagpur.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri Mohd. Riyaz Khan, Advocate for Applicants.
Shri A.M. Deshpande, A.P.P. for the Non-applicant.
Shri A.A. Dhawas, Advocate for the Informant.

CORAM : VINAY JOSHI, J.

DATE : SEPTEMBER 15, 2021.

Heard.

2. In Anticipation of arrest in Crime No.59/2021 registered with Kondhali Police Station, District Nagpur for offence punishable under Sections 379, 420, 421, 467, 468, 471, read with Section 34 of the Indian Penal Code, applicants are claiming for pre-arrest bail.

3. The State has resisted the bail by filing affidavit in reply. Similarly, the learned Counsel appearing for the informant has also opposed the

prayer made by applicants.

4. It is the prosecution case that applicants along with co-accused by hatching conspiracy prepared forged and fabricated documents to seek permission for cutting about 350 Teak trees worth Rs.1 Crore, standing on the land owned by the informant Ashadevi. According to the State while applying for permission, during entire process a fictitious lady was posed as Ashadevi and accordingly permission was obtained and trees were cut down. It is the contention of applicants that they are mere labourers and had not participated in the conspiracy. Moreover, it is submitted that since the Forest Officers have identified the said lady as Ashadevi, believing that, applicants have signed the Panchnama.

5. In resistance, the learned A.P.P. pointed certain documents from case papers to impress that applicants were well aware about the fictitious lady posed as Ashadevi in the process. Besides panchnama, the learned A.P.P. took me through a

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measurement map, wherein applicants had signed and the measurement was conducted by one of the applicant namely Devidas. It reveals from the said map, that so called Ashabai (fictitious lady) was present at the time of measurement, still applicants have signed on the same. Besides that, learned A.P.P. also took me through one undertaking given by the so called Ashadevi, which was witnessed by applicants Devidas and Nilkanth. Thus, it reveals that in entire process applicants on each and every occasion have identified the fictitious lady as Ashabai, therefore, at this stage it cannot be said that they are mere labourers and without any knowledge they have signed the panchnama.

6. Some forest officers are also involved in the entire episode. Prima facie there is material about complicity of applicants/accused. The investigation is at a preliminary stage. Custodial interrogation of applicants would unfold their role, and therefore, this is not a fit case for grant of pre-arrest protection. In view of this, Criminal

Order

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Application is rejected.

Rgd.

JUDGE