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

CRIMINAL APPLICATION (ABA) NO. 521/2021
(Ravi S/o Jugalkishor Jaiswal Vs. State of Maharashtra)
with
CRIMINAL APPLICATION (ABA) NO. 525/2021
(Nandkishor Jugalkishor Jaiswal Vs. State of Maharashtra)

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders
	ABA No. 521/2021 Shri Anil Mardikar, Sr. Advocate & Shri R. D. Wakode, Advocate for applicants. Shri M. J. Khan, APP for Non-applicant/State. Shri R. R. Vyas, Advocate for assisting to prosecution. **ABA No. 525/2021** Shri A. A. Naik, Advocate for applicant. Shri M. J. Khan, APP for non-applicant/State. Shri P. Mirza, Advocate for assisting to prosecution.

CORAM : VINAY JOSHI, J.
DATE : 13.10.2021.

Heard.

2. Both applications are arising out of Crime No. 344/2021 registered with the Police Station Wasant Nagar, Taluka Pusad, District Yavatmal for offence punishable under Sections 408, 420, 424, 465, 467, 468, 471, 477-A read with Section 34 and 120-B of the Indian Penal Code. In anticipation of arrest in said crime, the applicants are seeking for pre-arrest bail.

3. At the instance of report lodged by one Jaishri, crime was registered against total 9 accused. It is informed that except present applicants, others are released on bail. It is a family dispute where informant Jaishri is real elder sister of applicant Nandkishor and Ravi. The dispute relates to to a Foreign Liquor Shop run by the family. Undisputedly, liquor licence was initially in the name of one Jugalkishor who was father of informant Jaishri as well as of both applicants. The said licence was transferred in the name of Jaishri in the year 2002. A liquor shop namely J. J. Wine was run at Pusad relating to said licence. Undisputedly, though the licence stands in the name of informant - sister, however the liquor business was run by both brothers from the year 2002 till the year 2020 when dispute arose.

4. It is the informant's case that after her marriage, she started to reside at Amravati. The informant – lady was running coaching classes at Amravati as well as she was elected Councilor.

Since informant was residing at Amravati, it was not possible for her to look after the liquor business which was at Pusad. Therefore, informant had executed Nokarnama in the name of her brother authorizing him to operate liquor business. She stated that, in order to facilitate liquor business, she used to hand over blank signed cheques to her brothers on and often. The applicants were running liquor business as well as operating bank accounts from the year 2002 onward. There were two bank accounts, one with S.B.I. Pusad Branch, and another with Akola Janta Commercial Cooperative Bank at Pusad.

5. The informant stated that in the month of March 2020, she received one envelop containing her duplicate PAN Card which does not bear her signature. The said envelop also bore the mobile number of applicant Nandkishor. After few days, the informant went to Akola and inquired at Akola Janta Commercial Cooperative Bank. She learnt that her bank account was not in operation

since 2005 to the year 2015. However, her brothers have renewed the bank account by way of furnishing false KYC form, Adhar link form, specimen signature etc. The informant alleged that though she has not applied for renewal of bank account, the applicants by deceitful means on the strength of forged documents and signature renewed her account.

6. The informant stated that the applicants never furnished business accounts to her. They have misused her bank cheques as well as put her forged signature on the cheques. The applicants have not deposited business earning in her account, but misappropriated for their own use. She alleged that the applicants have made transactions to the tune of Rs. 27 crores for their own benefit.

7. Learned counsel for the applicants have strenuously argued that it was totally a family business. The liquor licence was initially in the name of their father, but for the sake of

convenience, informant being their elder sister, licence was transferred in her name. All the while, the applicants were looking after the entire business. The informant married at Amravati and never operated business at any point of time. Since licence was in her name, time to time Nokarnama was prepared in their name. It is contended that for the sake of convenience and with consent of informant, her blank cheques were kept with the applicants to run the business.

8. The applicants have denied that they have obtained duplicate PAN Card on the basis of forged documents. It is denied that the applicants have misrepresented bank authorities and renewed the bank account on the basis of forged signature. It is contended that it was well within the knowledge of informant that the concerned bank account was in operation till 2020. They have shown Income Tax Return of informant to impress that she was well aware about said bank account. Moreover, long delay in the lodgement of

report has been criticized. It is submitted that only because a family dispute arose in between sister and brothers, therefore false report has been lodged.

9. It is apparent that foreign liquor licence was initially in the name of father of the parties which was transferred in the name of informant-sister. Apparently, the informant being married staying at Amravati, the entire business was operated by applicants from the year 2002 to 2020. It appears that it was internal arrangement between sister and brothers to use blank cheques for the sake of business. Pertinent to note that during last 18 years, the informant never put any grievance about business account. Though it is stated that the applicants have done the transaction to the tune of Rs. 27 crores for their benefits, however there is no supporting material to that effect. Prima facie, it appears that the informant has stated the figure which was the turn over of the entire business. Learned counsel for

the informant has submitted that not only bank account was fraudulently renewed but false Nokarnama was prepared. However, said submission does not bear reference in the first information report. Learned counsel for the applicants have submitted that when dispute arose, initially the informant has filed report on 06.11.2020 about incident of mischief and criminal intimidation. They would submit that in the said report, there are no allegations about forgery, fraud and misappropriation.

10. Perused case diary as well as various documents produced by both sides. Prim facie, there appears to be mutual family arrangement between sister and brothers to run business. It is not the case of informant that the applicants never paid her business remuneration till the year 2020 when the dispute arose. The report bears vague reference that applicants have not shown the account nor deposited the amount in the business account. At this juncture, there is no material to

indicate that applicants have siphoned amount from the business account. The entire transaction creates overall information that by consent of sister, business was run by brothers.

11. While resisting bail, the State contended that custodial interrogation is necessary for taking specimen handwriting and signature of applicants. Moreover, the Police have to seize several business documents from the custody of applicants. In response, the applicants would submit that in presence of Excise Inspector, Panchanama was carried in which several documents have been handed over in the possession of informant. At this juncture, on Court query, learned counsel for the applicants made a statement that T.P. File, stock book, visit book and brand-wise book have been handed. From said statement, it appears that without verification, general statement has been made in reply-affidavit about recovery of the documents. As of now, Nokarnama was discontinued and shop was

entrusted to someone else. Dispute is of civil nature to settle the business account, if any. For the purpose of giving specimen handwriting and signature, custody is not required. By and large, it was long standing arrangement between brothers and sister for running liquor shop. By consent of informant, the business was being run smoothly for 18 years. It is a matter of trial to establish that applicants have made forged signature of informant for the purpose of cheating. Considering the nature of dispute between family members, the applicants' liberty can be protected by directing them to join the course of investigation. In view of that following order:-

(I) Both applications stand allowed and disposed of.

(II) Ad-interim orders dated 20.08.2021 in Criminal Application (ABA) Nos. 521/2021 and 21.08.2021 in Criminal Application (ABA) No. 525/2021 are hereby made absolute on the same terms and conditions.

(III) Applicants shall continue to attend the concerned Police Station on every Sunday in between 11.00 a.m. to 02.00 p.m. till filing of charge-sheet.

(IV) Both applicants shall provide their specimen handwriting and signatures to the Investigating Officer to facilitate the investigation.

(V) Applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

<u>JUDGE</u>

Gohane.