

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

CRIMINAL APPLICATION (ABA) NO.608 OF 2021

Hamid Rashid Sheikh,

..vs..

State of Maharashtra, thr. P.S.O. P.S. Kondhali, District Nagpur.

WITH

CRIMINAL APPLICATION (ABA) NO.586 OF 2021

Sanjay Chindhuji Lende,

..vs..

State of Maharashtra, thr. P.S.O. P.S. Kondhali, District Nagpur.

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

Court's or Judge's orders

Shri M.N. Ali, Advocate for applicant in ABA No.608/2021.
Shri M.F. Khan, Advocate for applicant in ABA No.586/2021.
Shri A.M. Kadukar, A.P.P. for non-applicant/State.
Shri A.A. Dhawas, Advocate for assist prosecutor.

CORAM : VINAY JOSHI, J.

DATED : 02/12/2021

Heard.

2. In anticipation of arrest in Crime No.59 of 2021 registered with police station Kondhali, District Nagpur for the offence punishable under Sections 120-B, 379, 420, 421, 467, 468, 471 read with Section 34 of the Indian Penal Code. Both the applicants have prayed for grant of pre- arrest protection.

3. Learned Counsel for the applicants also seeks for ad-interim protection.

4. Initially, both applicants have jointly applied for grant of pre-arrest bail vide Criminal Application (ABA) No.153/2021. This Court has shown its non

inclination to grant protection on which applicants have withdrawn said application which is reflected in order dated 28/06/2021. In such a background, again applicants have applied for the same relief.

5. Undisputedly, once applicants' entitlement for pre-arrest protection was tested before this Court on which it was found that it is not a fit case to grant protection. In the circumstances for considering the second bail application, it is necessary to see whether there is material change of circumstance requiring this Court to revisit the claim. In that light, applicants' learned Counsel has submitted that original informant Ashadevi was not the owner of concerned land for which he has produced copies of sale-deeds executed by Ashadevi in the year 2003. The second circumstance brought to the notice is about no objection given by the Gram Panchayat to the Ashadevi's application seeking permission to cut trees..

6. Briefly stated, it is the prosecution case that applicants who are working as forest guard and round officer along with co-accused by hatching conspiracy prepared forged and fabricated documents to seek permission to cut about 350 teak trees worth Rs.1 Crore. Primly, it is alleged that the applicants have fraudulently identified the fictitious lady as owner Ashadevi in the process.

7. I may say that on perusal of the available record, initially they were declined for the relief. The

first change of circumstance is about the new stand that Ashadevi (informant) was not owner of the property at relevant time. The copy of sale-deed discloses that in the year 2003, Ashadevi sold the property to one partnership firm. I do not think that the said stand would help applicants in any manner. The fact remained that one lady was posed to be Ashadevi to whom applicants have identified in the process. The second ground is of no objection issued by Gram Panchayat for granting permission to cut trees to owner Ashadevi. It is not before the Court as to whether Gram Panchayat officers have verified the owner Ashadevi while granting no objection. The allegation against applicant is specified about conspiring fictitious lady to obtain permission. In the result, two circumstances brought on record do not impress to consider as substantive change of circumstances to reconsider the claim. Hence, both applications being devoid of merit, stands rejected.

JUDGE

R.S. Sahare