

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 ANTICIPATORY BAIL APPLICATION NO.388 OF 2022

ANSAR MUNIR SHAIKH

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. R.R. Karpe, Advocate for the applicant

Mr. A.M. Phule, APP for the respondent

Mr. Shaikh Tarek Mobin H., Advocate for assist to APP

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WITH

ANTICIPATORY BAIL APPLICATION NO.332 OF 2022

WITH

ANTICIPATORY BAIL APPLICATION NO.336 OF 2022

WITH

CRIMINAL APPLICATION NO.1464 OF 2022

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 22nd APRIL, 2022

ORDER :

1 Criminal Application No.1464 of 2022 moved for assist to APP
stands allowed and disposed of.

2 All the applicants are apprehending their arrest in connection with Crime No.90/2022 dated 06.02.2022 registered with Shrigonda Police Station, Dist. Ahmednagar, for the offence punishable under Section 406, 420, 465, 468, 471 read with Section 34 of the Indian Penal Code, 1860.

3 Learned Advocate appearing for the applicants submitted that this Court had granted interim protection to the applicants by order dated 01.04.2022 and 23.03.2022 respectively except applicant No.1 in Anticipatory Bail Application No.332 of 2022. The application filed by applicant No.1 Kayyum Haider Shaikh in Anticipatory Bail Application No.332/2022 was rejected at the ad-interim stage itself. Therefore, as regards the other applicants are concerned, they are not the beneficiaries of the alleged forged documents. They are in the capacity as witnesses to the questioned documents. There is no question of lawful gain or lawful loss, because of the said act by them directly and it cannot be said that there is direct involvement of the present applicants in cheating the informant. Therefore, the interim protection granted earlier to the applicants deserve to be confirmed.

4 Per contra, the learned APP, well assisted by learned Advocate Mr. Shaikh Tarek Mobin H. for the original informant, submitted that the

offence that has been committed by the accused persons with their common intention is serious. Applicant Kayyum Haider Shaikh is the nephew of the informant and he has got the sale deed in his favour alleged to be executed by the informant. It is with the help of the co-accused, so also, he had raised loan on the said land. The questioned documents themselves specifically say that as these applicants were knowing the parties, they have signed it in the capacity as attesting witnesses. In fact, the informant had never gone to the Sub-Registrar's Office on the date of the sale deed. Even the Aadhar Card of the informant has been falsely prepared. Somebody had impersonated the informant and thereby it has raised to the lawful loss to the informant as even loan of Rs.6,00,000/- has been raised from the bank. Custodial interrogation of the applicants is therefore required.

5 Perusal of the First Information Report lodged by one Kadar Babubhai Shaikh would reveal that said Kayyum Haider Shaikh, whose anticipatory bail application has been rejected by this Court at the threshold, got sale deed executed in his favour on 20.11.2017 of the land which was standing in the name of informant. Informant says that he never visited the Sub-Registrar's Office and also the fact that is Aadhar Card as well as thumb mark has been forged. Applicant in Anticipatory Bail Application No.388 of 2022 is the attesting witness and at this stage there is no material collected

by the Investigating Officer to show what benefit he has received from such act. Furthermore, the identification may be for Kayyum Haider Shaikh also and it is then not necessary that identification should be for the informant. Applicant Nos.2 and 3 in Anticipatory Bail Application No.332 of 2022 are also identifying witnesses to the sale deed. Further, the applicant in Anticipatory Bail Application No.336 of 2022 is also attesting witness. It is to be noted that in all 4-5 persons appears to have been housed as attesting witnesses for various documents. However, the police papers do not show what is the benefit which has been received by the present applicants. It can also be seen from the documents that accused No.1 Kayyum Haider Shaikh has filed Regular Civil Suit No.49/2022 for injunction against the informant and one Nadeem Gulam Pathan. Definitely, the document in question is now subject to the civil rights. Under such circumstance, as regards the attesting witnesses are concerned, their custodial interrogation is not necessary. Making them available for the purpose of investigation would suffice and would be in the interest of justice. Therefore, the interim protection granted to all the applicants deserves to be confirmed. Accordingly, it is confirmed. Hence, following order.

ORDER

1 Applications stand allowed.

2 The ad-interim protection, granted by this Court earlier to applicants vide order dated 23.03.2022 (in Anticipatory Bail Application No.332 of 2022 and Anticipatory Bail Application No.336 of 2022) and on 01.04.2022 (in Anticipatory Bail Application No.388 of 2022), is hereby confirmed and made absolute. In other words, if the applicants are not formally arrested, in the event of arrest of the applicant viz. **Ansar Munir Shaikh** (in Anticipatory Bail Application No.388 of 2022), applicants viz. **Bahoddin Husain Shaikh and Rajiya Parimahamad Shaikh** (in Anticipatory Bail Application No.332 of 2022) and applicant viz. **Harun Babulal Shaikh** (in Anticipatory Bail Application No.336 of 2022) in connection with Crime No.90/2022 dated 06.02.2022 registered with Shrigonda Police Station, Dist. Ahmednagar, for the offence punishable under Section 406, 420, 465, 468, 471 read with Section 34 of the Indian Penal Code, they be released on PR. Bond of Rs.30,000/- (Rupees Thirty Thousand only) each with two solvent sureties of Rs.15,000/- (Rupees Fifteen Thousand only) each.

3 Applicants shall not indulge in any criminal activity nor they should tamper with the evidence of the prosecution, in any manner.

4 Applicants shall cooperate with the investigation.

5 Applicants, except applicant Rajiya Parimahamad Shaikh, shall

remain present before the Investigating Officer on every Wednesday and Sunday between 10.00 a.m. to 12.00 noon, till filing of charge sheet.

(Smt. Vibha Kankanwadi, J.)

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