

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

922 ANTICIPATORY BAIL APPLICATION NO.1022 OF 2022

1. RAMESH ANANDRAO SONAWANE (PATIL)

2. SWAPNIL RAMESH SONAWANE (PATIL)

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

WITH

CRIMINAL APPLICATION NO.2670 OF 2022

IN ABA/1022/2022

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Advocate for Applicants : Mr. Patil Mahesh Haibat Rao.

APP for Respondents-State : Mr. V. M. Kagne.

Advocate for Complainant to assist APP : Mr. N. N. Desale

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CORAM : S. G. MEHARE, J.

DATE : 30.08.2022

PER COURT :-

1. Heard the learned counsel for the applicants, learned APP for the respondents-State and learned counsel appearing for the complainant to assist the learned APP.

2. The facts have been discussed in detail in the order dated 04.08.2022. The crime has been registered on the orders of the learned Magistrate under Section 156(3) of the Cr.P.C. Before passing an order under Section 156(3), the complainant had filed a civil suit for partition. The suit property was already mortgaged in the year 2003 and renewed

every year. The cash credit facility was lastly renewed in the year 2019. In short, the suit property was mortgaged before filing the suit. The Court has expressed a legal position as regards the breach of injunction and transfer of the property during the pendency of the suit. Considering the entire aspects of the present case, the Court granted the interim protection to the applicants.

3. Learned APP would submit that the property mortgaged was renewed for C.C. limit after passing the prohibitory injunction orders. Therefore, the offence has been committed.

4. The discussion made in detail by this Court in the order dated 04.08.2022, is that the other legal remedy was available to the complainant. The legal aspects have been ignored by everyone and the civil dispute has been given the colour of a criminal case.

5. Considering the facts of the case and the nature of allegations, this Court is of the view that the prosecution has no case for custodial interrogation. Hence, the following order:

ORDER

(i) The application is allowed.

- (ii) The interim protection granted to the applicants by the order dated 04.08.2022 stands confirmed on the same terms and conditions.
- (iii) It is made clear that the observations made herein above are confined to the decision of this application only.
- (iv) Criminal Application No.2670 of 2022 is allowed.

(S. G. MEHARE, J.)

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vmk/-