

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1185 OF 2022
WITH APPLN/3363/2022 IN ABA/1185/2022

Shivkant S/O Pandit Kirwale And Another

..Applicants

Versus

The State Of Maharashtra

..Respondent

Mr. P.R. Katneshwarkar h/f. Mr. G.A. Gadhe, Advocate for the applicants.

Mr. S.P. Sonpawale, APP for State.

Mr. A.N. Nagargoje h/f. Mr. A.S. Jagtap, Advocate for the applicant in Application No. 3363/2022.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 19th OCTOBER, 2022

ORDER :

1. The applicants/advocates apprehend their arrest in Crime No. 163 of 2022, registered with Parali City Police Station for the offences punishable under section 419, 420, 465, 468, 471 read with 34 of IPC and section 82 and 83 of the Registration Act, 1908. FIR in question is lodged by in-charge Deputy Registrar of Registration Office of Parali-Vaijinath against the applicants and two co-accused alleging that on 30.12.2021, accused persons got sale deed No. 4162/2021 registered in Sub Registrar's office in respect of land gut no. 161 situated at Acharya Takali, Prali-Vaijinath, District-Beed. Original owner of

the said land Dnyanoba Jogdand filed complaint to the Registrar alleging that he was cheated by the accused persons and his property has been sold by presenting somebody else in his place at the time of registration. An inquiry was conducted by office of the Registrar and it was revealed that the accused persons have committed offence punishable under section 419, 420, 465, 468, 471 read with 34 of IPC and section 82 and 83 of the Registration Act, 1908.

2. Heard the learned advocate for the applicants, learned Additional Public Prosecutor for the State and learned advocate for the applicant in Criminal Application No. 3363/2022. Perused the investigation papers.

3. From the investigation papers it appears that the applicant No. 1, who is practicing advocate has prepared a sale deed of land belonging to Dnyanoba Jogdand, which is sold to his father. The said sale deed presented in the Sub Registrar's Office and some unknown person was presented as Dnyanoba Jogdand and the sale deed is registered. The mother of applicant No. 1 and applicant No. 2 have signed the sale deed as attesting witnesses. The photograph of original owner Dnyanoba Jogdand is different than the photograph appearing on the sale deed.

Therefore, there appears substance in the allegations of the prosecution that the applicant No. 1 being advocate is the master mind behind preparation and execution of sale deed in question, which is got executed by presenting somebody else in the place of original owner Dnyanoba Jogdand. The prosecution requests custody of the applicants for recovery of original sale deed and for ascertaining as to who impersonated the original owner Dnyanoba Jogdand. On instructions from the investigating officer, who is present in the Court, the learned Additional Public Prosecutor states that though interim protection was granted to the applicants, the applicants have not co-operated in the investigation. It is further submitted that offence punishable under section 326 of IPC is registered against applicant No. 1.

4. FIR is lodged on the basis of inquiry conducted by the Sub Registrar's office. The applicant No. 1 appears to be master mind and he is beneficiary of the sale deed. For recovery of original sale deed and to ascertain as to who impersonated the original owner, custodial interrogation of applicant No. 1 is necessary. Fact remains that the applicant has not co-operated in the investigation in spite of interim protection granted in his favour.

5. So far as applicant No. 2 is concerned, the only role attributed to him that he is signatory to the registered sale deed prepared by applicant No. 1. Prima facie, it appears that being a friend of applicant No. 1, on the request of applicant No. 1, he appears to have signed the registered sale deed as attesting witness. He has not derived any benefit of said document. In that view of the matter and considering the fact that he is a practicing advocate, he deserves protection.

6. In the result, application of applicant No. 1- Shivkant s/o Pandit Kirwale is hereby rejected. Application of applicant No. 2-Suryakant s/o Sidram Kamble is hereby allowed.

7. In the event of arrest of applicant No. 2- Suryakant s/o Sidram Kamble, in connection with Crime No. 163 of 2022, registered with Parali City Police Station for the offences punishable under section 419, 420, 465, 468, 471 read with 34 of IPC and section 82 and 83 of the Registration Act, 1908, he be released on executing P.B. and S.B. of Rs. 10,000/-, with one surety in the like amount.

8. The applicant No. 2 shall attend the concerned police station during 25th October, 2022 to 31st October, 2022, everyday between 9.00 am to 11.00 am, and shall co-operate in the investigation.

[NITIN B. SURYAWANSHI, J.]