

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1207 OF 2022

SUBHASH NARAYANRAO KONDALWAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. A.S.Sawant h/f. Mr. U.A.Bhadgaonkar
APP for Respondent : Mr. V. M. Kagne
...

CORAM : S. G. MEHARE, J.

DATE : 03-10-2022

PER COURT :-

1. Heard the learned counsel for the applicants and the learned APP for the respondent/State.
2. The facts and the allegations levelled against the applicants have been discussed in detail in the order dated 14.09.2022. Hence, the *interim* protection was granted to the applicant.
3. The learned A.P.P. for the respondent would submit that act committed by the applicants are against the interest of the members of the society. They have forged the documents. They did not hand over the charge to the new body. The offence is serious. Hence, the custodial interrogation of the applicants is essential.
4. The facts discussed in the order dated 14.09.2022 reveal that the allegations against the applicants were that they have

increased the number of members and transferred the plots in the name of their relatives. The dispute in the society has a chequered history. If any business has been done in the society illegally, a legal remedy is available under the Maharashtra Co-operative Societies Act. The Deputy Registrar Co-operative Societies is the controlling authority and has power to correct the illegality committed by the Executive / Managing committee of the society. However, instead of raising the dispute before the competent authority, a report was lodged for the various offences including forgery. Unless the Deputy Registrar comes to the conclusion that some serious offences have been committed by the committee, it would be inappropriate to accept only on the report of the complainant that a forgery has been committed and the members have been cheated. In view of the dispute as regards the elections and the business of the society, the Court is of the view that a legal remedy is available to the complainant. In view of the facts of the case, the Court is of the opinion that no purpose would serve if the applicants would be sent to face for custodial interrogation. Hence, the following order :-

- i) The application is allowed.
- ii) The order granting *interim* protection to the applicant by the order dated 14.09.2022 is confirmed on the same terms and conditions.

(S. G. MEHARE)
JUDGE

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