

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO. 1653 OF 2021

Yogesh S/o Bhausahab Chaudhari

Applicant

Versus

The State of Maharashtra

Respondent

Mr. S. J. Salunke, Advocate for the applicant.

Mr. V. S. Badakh, APP for respondent/State.

Mr. Vikrant Palsikar, Advocate for the informant.

CORAM : M.G. Sewlikar, J.

DATE : 8th MARCH, 2022.

PER COURT :

1. Heard.

2. One Bhikaji Parasram Chaudhari was the father of the informant. Late Bhikaji was a Government servant. He had two daughters; the informant and Smt. Asha Radhakisan Hirde and a son by the name of Bhausahab Bhikaji Chaudhari. Bhausahab Bhikaji Chaudhari is no more. Applicant is the only son of Bhikaji Parasram Chaudhari.

3. Informant is the paternal aunt of the applicant. Father of the informant by the name of Bhikaji Parasram Chaudhari was getting pension. The total amount of pension in the account of Bhikaji Chaudhari was Rs. 11,34,068/-.

4. Applicant applied for succession certificate fraudulently mentioning himself and his brother as the only heirs. Accordingly, succession certificate was issued by the competent Court. Thereafter, applicant and his brother withdrew the entire pension of Bhikaji. Bhikaji was survived by his daughters i.e. informant and Asha Hirde and daughter-in-law – Kantabai Choudhari and grand children whose names are mentioned in the First Information Report.

5. When the informant got the knowledge of the fraud played by the applicant, she lodged the First Information Report on the basis of which, offences under Sections 420, 467, 468, 471 read with Section 34 of the Indian Penal Code came to be registered against the applicant.

6. Applicant admits that informant is the heir of Bhikaji Parasram Choudhari. Shri Salunke, learned counsel for the applicant submits that the applicant genuinely believed that he and his brother are the only heirs of Bhikaji Chaudhari. There was no intention to play fraud on the Court or on the informant. To show his bonafides, the applicant has deposited almost entire share of the informant i.e. Rs. 3,81,000/-. Shri Palsikar, learned counsel for the

informant submits that the share of the informant comes to Rs. 4,87,801/-. However, considering the fact that the applicant has shown his bonafides in depositing the amount of Rs. 3,81,000/- and the fact that the applicant is behind the bars since 9th November, 2021, I am inclined to release the applicant on bail.

7. It is made clear that this Court has not carved out the share of the informant. It is the job of the Civil Court. Learned counsel for the applicant submits that the civil litigation initiated by the informant is also pending. Therefore, it is made clear that this Court has not carved out the share of the applicant. The amount is mentioned only on the basis of submissions made by learned counsel for the applicant and learned counsel for the informant.

8. Without prejudice to the rights of the parties, the informant is permitted to withdraw the amount deposited. Learned counsel for the applicant has no objection for the same.

9. In this view of the matter, following order is passed :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs. 25,000/- (Rs. Twenty Five Thousand) with one solvent surety in the like amount in connection with Crime No. 0269/2021 registered with Mantha Police Station, Dist. Jalna, for the offences punishable under Sections 420, 467, 468, 471 read with Section 34 of the Indian Penal Code, on condition that he shall not repeat such type of offence again and he will not tamper the prosecution evidence.
- iii) It is clarified that the observations in this order are made only for the disposal of this application and the learned Trial Court or for that matter any other Court need not be influenced by the same and can come to its independent conclusion during the trial.
- iv) Application stands disposed of.

(M. G. SEWLIKAR)
Judge