

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.473 OF 2022
WITH
INTERIM APPLICATION NO.797 OF 2022

Bhajansingh Indersingh Sachdev and Others ...Applicants
vs.
The State of Maharashtra ...Respondent

Mr. Tushar Sonawane, for the Applicants
Mr. P.H. Gaikwad-Patil, APP, for the State.
Mr. Rameshwar Gite a/w. Mr. Rohit Gorade and Mr. Ashwin
Pimpale, for the Intervener.

CORAM : N. J. JAMADAR, J.
DATE : JULY 14, 2022

P.C.:

1. This is an application for pre-arrest bail in connection with C.R. No. 110 of 2021 registered with Deolali Camp police station, Nashik for the offences punishable under sections 420, 406, 465, 466, 467, 468 and 471 read with 34 of Indian Penal Code, 1860.

2. Smt. Swarnkaur Sachdev (the first informant) is the mother of applicant No. 1 Bhajansingh. The applicant No. 2 Inderjitkaur is the wife of applicant No. 1. The first informant has another son, Amarjit. First informant resides with Amarjit and his family. The applicants are residing separately from the first informant at Deolali Camp. First informant's husband and the father of applicant

No. 1, Indersingh passed away on 25th July, 2012. After the demise of Indersingh, disputes arose between the applicant No. 1, on the one side, and first informant and Amarjit, on the other side. It seems, a suit for partition of the properties including plot No. 1 situated at S.No. 150A/1/1A has been instituted.

3. The first informant alleges that the said plot is her self-acquired property. In the said suit and other proceedings, the applicants have falsely relied upon a false and fabricated Deed of Assurance (Hamipatra). The first informant alleges the said Deed of Assurance is forged as neither the first informant nor her deceased husband, Indersingh had executed the same. Hence, the report.

4. Apprehending arrest, the applicants preferred an application for pre-arrest bail before the Court of Session. Initially, interim protection was granted. Subsequently, the application came to be rejected. On 23rd February, 2022 this Court continued the order of interim protection granted by the learned Session Judge. The said position has continued till date.

5. On 23rd June, 2022, a grievance was made that the applicants have not cooperated with the investigation and the custodial

interrogation of the applicants was warranted primarily for the purpose of recovery of the original instrument, which is allegedly forged. Thereupon the applicants volunteered to produce the original Deed of Assurance (Hamipatra) dated on 11th January, 2012, before investigating officer.

6. Today the Court is informed that the original Deed of Assurance dated 11th January, 2012 is produced before the investigating officer on 7th July, 2022. In view of the aforesaid development, the prime purpose for which the custodial interrogation of the applicants was sought, namely, the recovery of the original Deed of Assurance, which is allegedly forged, seems to have been achieved.

7. The learned APP and the learned counsel for the Intervener would, however, urged that the material on record clearly indicates that the Deed of Assurance is a forged and fabricated document. Therefore, since forgery of the instrument is writ large, the applicants do not deserve the exercise of discretion.

8. The aforesaid submission is required to be appreciated in the light of the fact that the genesis of the offences seems to be in the

dispute over the alleged joint family properties. It appears that the applicant No. 1 has instituted a Special Civil Suit No. 465 of 2020 wherein a declaration is sought that the Will, purportedly executed by the Late Indersingh, is a forged and fabricated instrument. Another suit bearing Reg. Civil Suit No. 800 of 2019 appears to have been instituted for arrears of rent of a premise, which is claimed to be a joint family property. The question as to which of the instrument is genuine and who are or are not entitled to the properties are primarily and predominantly in the realm of civil disputes. Undoubtedly, if the Deed of Assurance is forged, as alleged, the perpetrators deserve to be prosecuted and punished. However, in the facts of the case, with the production of the original Deed of Assurance, which is alleged to be forged, the investigating agency is equipped to carry out further investigation. Thus, custodial interrogation of the applicants, does not seem to be warranted. The applicants can be further directed to join in the investigation and furnish the specimen hand-writing and signature to facilitate further investigation.

Hence, the following order.

ORDER

1] The application stands allowed.

2] In the event of arrest of the applicants Bhajansingh Indersingh Sachdev and Inderjitkaur Bhajansingh Sachdev in C.R. No. 110 of 2021 registered with Deolali Camp police station, Nashik, they be released on bail on furnishing a P.R. Bond in the sum of Rs. 25,000/- each with one or two sureties in the like amount

3] The applicants shall cooperate with the investigation and report to the investigating officer on every alternate Saturday from 10 am to 1 pm for a period of two months and, thereafter, as and when directed by the investigating officer.

4] The applicants shall furnish their specimen hand-writing and signature, if directed by the investigating officer.

5] The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

6] The applicants shall regularly attend the proceedings before the jurisdictional Court.

7] In view of the disposal of the application, Interim Application No. 797 of 2022 also stand disposed of.

(N. J. JAMADAR, J.)