

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.889 OF 2022

Sudarshan Raghunath Kadam

...Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Rameshwar N. Gite for the Applicant.

Ms.J.S. Lohokare, APP for the Respondent-State.

Mr.N.R. Bubna for the Intervenor.

Mr.Jayesh Piraji Patil, API, Chavani Police Station, Malegaon.

CORAM : C.V. BHADANG, J.

DATE : 1 APRIL 2022

P.C.

. The Applicant, who is President of *Dnyandeep Education Society*, Satana Road, Malegaon, Nashik which is a trust running an Education Institute, apprehending arrest, in connection with the investigation of Crime No.53 of 2022, registered with Chavani Police Station, under Section 420, 465, 467, 478, 471, 120B of Indian Penal Code, is seeking anticipatory bail.

2. The aforesaid crime is registered on the basis of the complaint lodged by Nandkishor Krishna Kasar on 17 March 2022.

NILAM
SANTOSH
KAMBLE

Digitally signed by
NILAM SANTOSH
KAMBLE
Date: 2022.04.01
19:05:00 +0530

3. The allegation is that the premises standing on Plot No.14 and 15 on Survey No.14 at Soygaon, Taluka-Malegaon owned by the family of the informant which property is known as *Sau.J.Y. Kathwala Mangal Karyalay* was leased out to Dnyandeep Education Society for a period from 20 March 2006 to 31 March 2007 for running a education institute/college. Even after the expiry of the period of the Lease the lessees continued in possession. Eventually on 22 February 2018 a notice was issued by the landlord for eviction and possession and for recovery of arrears of the rent which was replied on behalf of the trust/lessees.

4. It is a matter of record that a Civil Suit for eviction, possession and recovery of arrears of rent was filed in which there was a Decree, in execution whereof a possession warrant has been issued which has been stayed by this Court in Writ Petition No.2480 of 2022. This is only part of the entire dispute.

5. The informant obtained a document of purported Lease deed executed between the landlord and said trust for the period of 30 years from *Shreemati Nathibai Damodar Thackersey Women's University* (SNDT), Mumbai to which the Educational Institution run by the said trust is affiliated.

6. The SNDT has furnished the said document purportedly executed on 2 October 2006.

7. Upon receipt of the said document the informant learnt that the trust has fabricated the said Lease Deed for 30 years which is shown to be notarized by Advocate K.K. Gughe a Notary Public from Nashik. It was also revealed that the signatures on behalf of the lessors on the Lease Deed were forged and fabricated. Incidentally the said Lease Deed is signed by the Applicant in the capacity of the President of the trust.

8. I have heard the learned counsel for the parties. Perused record.

9. The learned counsel for the Applicant strenuously urged that the dispute is of a civil nature, inasmuch as there is a decree passed in the civil suit and in execution thereof a warrant is issued which is challenged before this Court and has been stayed.

10. He submitted that the complaint is grossly belated. The Lease Deed had expired in the year 2006. However the notice was issued on 22 February 2018 followed by the present complaint in the year 2022.

11. He submitted that other trustees who are the co-accused have been granted anticipatory bail by the learned

Sessions Judge and learned Sessions Judge was in error in refusing to grant protection to the Applicant.

12. The learned Additional Public Prosecutor assisted by the learned counsel for the Intervenor has submitted that the issue about execution of 30 years Lease Deed is an independent issue. It is submitted that even the notary Mr.K.K. Gughe has given a statement disowning the fact of notarization of the Deed before him. It is stated that the matter is serious as the University was misled into believing that the Lease Deed is genuine and in order enable the trust to obtain affiliation.

13. I have considered the submissions made. Admittedly there was a lease for three years executed between the parties, for the period from 20 March 2006 to 31 March 2009. After the expiry of the same, the possession continued with the trust/lessees. By a notice dated 22 February 2018 the lessors sought possession with arrears of rent. Subsequently, a Civil Suit was filed which has been decreed and the possession warrant was issued which is subject matter of challenge before this Court, in which stay has been granted.

14. In my considered view, this part of the controversy/dispute is clearly distinct than the allegation in the complaint about the fabrication of the Lease Deed for 30 years,

on behalf of the trust. It is necessary to note that the present complaint came to be lodged after the informant had obtained a copy of the Lease Deed from SNTD University under the RTI Act, on 27 May 2019. The said Lease Deed is shown to be notarized by Advocate Mr.K.K. Gughe a Notary at Nashik.

15. The Investigating Officer has recorded the statement of Advocate Mr.Gughe and he has stated that no such Lease Deed is notarized by him.

16. The Applicant in his Application before the learned Sessions Judge or before this Court has not claimed that there was any such Lease deed for 30 years executed between the parties at any point of time.

17. In my considered view, the matter not only involves an allegation about the fabrication of the Lease Deed for 30 years but also about an allegation that the University was misled while obtaining affiliation.

18. It was not disputed that the Lease Deed bears the signature of the present Applicant in his capacity as President of the Trust.

19. In my considered view, the proper investigation of the matter, is the paramount consideration at this stage, for which custodial interrogation of the Applicant is necessary. No case for grant of pre arrest bail is made out. The Criminal Application is accordingly rejected.

C.V. BHADANG, J.