

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1364 OF 2021**

Kalpana Prakash Motiwale ...Applicant

Versus

The State of Maharashtra and ors. ...Respondents

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Mr. Rahul Vijaymane for the Applicant.

Mr. A.R. Kapadnis, APP for the State.

Mr. V. V. Purwant for Respondent Nos. 2 and 3.

Mr. M.V. Pawar, PSI Solapur City, Present.

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CORAM : N.R. BORKAR, J.

DATED : 29 NOVEMBER 2022

P.C. :-

This is an application under Section 438 of Code of Criminal Procedure of anticipatory bail.

2. The applicant is apprehending her arrest in Crime No. 184 of 2021 registered at Sadar Bazar police station for the offence punishable under Section 417, 420, 423, 465, 466, 467, 468, 471, 506 read with 34 of Indian Penal Code.

3. According to the prosecution, the land bearing survey No. 113/2/1 was originally owned by the grandfather of the complainant, namely Bandappa Shagalolu. After the death of her

grandfather, his sons Ramrao, Hanmantrao and Vitthalrao became the owner of the said land and their names were mutated in 7/12 extract of the said land. According to the complainant, Hanmantrao was her father and after his death the names of her sister Chhayabai and brothers Sagar and Pramod came to be recorded in 7/12 extract of the said land. It is alleged that with a view to grab the land in question the co-accused Sayyana who is the son of Ramrao and present applicant, who is daughter-in-law of complainant's paternal aunt started preparing false document. According to the complainant, the present applicant and co-accused Sayyana had prepared forged power of attorney and on the basis of the said forged power of attorney, they obtained the permission to use the land in question for non-agricultural use. It is alleged that the applicant and co-accused thereafter got sanctioned layout of residential plots on the said land and sold the said plots to third parties and pocketed the sale price.

4. I have heard the learned counsel for the applicant and the learned APP for the respondent-State and also the learned counsel for respondent No. 2 and 3/complainants.

5. The learned counsel for the applicant submits that the land in question was ancestral land. It is submitted that the power of attorney was genuine. It is submitted that proportionate sale consideration was paid to all shareholders. It is further submitted that

nothing is to be recovered at the instance of the present applicant and therefore her custodial interrogation is not necessary.

6. On the other hand the learned APP for the respondent-State submits that during the course of investigation enquiry was made in relation to alleged forged power of attorney and no record of it, was found in the office of Special Executive Magistrate. The learned counsel for the respondent Nos. 2 and 3 submits that out of the sale consideration, no amount was paid to the complainant and her sister Chhayabai.

7. Admittedly the complainant and her sister Chhayabai were co-owner in the land in question. The applicant has not produced any material on record to show that out of sale consideration, which according to the prosecution is in few crores, the complainant and her sister were paid the amount proportionate to their share in the land in question. Prima facie the allegation appears to be true. Considering the facts and circumstances, I am not inclined to release the applicant on anticipatory bail. Hence, the application is rejected.

(N.R. BORKAR, J.)