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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1874 OF 2022**

Parikshit Devidas Bade and Ors. Applicants.

V/s

State of Maharashtra and Anr. Respondents

Mr. Manoj Mohite, Senior Advocate i/b Mr. Vivek Rane for the Applicants.

Ms. PN. Dabholkar, APP for Respondent No.1.

Mr. Surel Shah i/b Mr. R.S. Gangawane for Respondent No.2.

Mr. Rahul Ghadge, PSI, Khadak Police Station, Pune, present.

CORAM: NITIN W. SAMBRE, J.

DATE: SEPTEMBER 21, 2022

P.C.:-

1] Deceased Devidas Bade, father of Applicant No.1 and complainant alleged to have executed a Will dated 18/12/2018 before his death on 5/4/2020.

2] Based on the said Will, Applicant No.1 has initiated Probate Proceedings through Misc. Application No.626 of 2021 which, I am informed, is pending adjudication on the file of Civil Judge, Senior Division, Pune. The complainant, real brother of Applicant No.1 and son of deceased Devidas with his widow sister noticed that Will is sham and bogus document and as such lodged a complaint of which no cognizance was taken. They therefore approached the State

Government. Pursuant to the directions of the State Government, offence came to be registered vide Crime No.99 with Khadak Police Station, District Pune for the offence punishable under Sections 420, 467, 468 read with Section 34 of the Indian Penal Code.

3] Submissions of Mr. Mohite, learned Senior Counsel appearing on behalf of the Applicants are, Will dated 18/12/2018 is a notarized document. According to him, complete property of the deceased stood distributed by virtue of the aforesaid Will as under:-

Complainant	Applicant	Sister
1 Flat and 2 Farmhouses	1 Bungalow	All amounts in the Pension Account given to his daughter.
1 Open Plot	1 Open Plot	
50% of Agricultural Land	50% of Agricultural Land	
	Contents of Locker given to the wife of the Applicant.	

He would urge that complainant has every right to object probate proceedings which includes adjudication as to whether will was properly executed or not. As such, he would urge that custodial interrogation of the Applicants is not warranted in the case in hand as the entire issue is civil in nature.

4] Learned APP assisted by the learned Counsel for the complainant Mr. Surel Shah would urge that since the Will dated 18/12/2018 is a suspicious document, report of the handwriting expert was called. It is based on this report of handwriting expert, aforesaid complaint came to be lodged. She would urge that perusal of the Will would demonstrate that same was executed in a suspicious manner and that being so, issue of criminality or intention of the Applicants to commit offence can be looked into only in the present crime and not in the Probate Proceedings. As such, she would urge that Application is liable to be rejected.

5] I have appreciated said submissions.

6] Fact that Will dated 18/12/2018 is a notarized document is not in dispute. It is also not in dispute that Probate Proceedings being Misc. Application No.626 of 2021 is pending adjudication before the Court of Civil Judge, Senior Division, Pune. In the said Probate Proceedings, complainant is an objector. As such, whether Will is suspicious or sham and bogus document can be looked into in the said proceedings. Merely because private report of the handwriting expert goes against the interest of the Applicants by itself will not lead this Court to form a prima facie opinion that Applicants have committed the offence in question, which warrants custodial interrogation. As a result, ad-interim protection granted to the Applicants stands confirmed.

7] Applicants in the event of their arrest in C.R. No.99 of 2022 registered with Khadak Police Station, District Pune for the offence punishable under Sections 420, 467, 468 read with Section 34 of the Indian Penal Code, be released on bail on executing PR. Bond of Rs 25000/- each with one or more sureties in the like amount. Applicants shall neither influence the witnesses in any manner nor tamper with the evidence. Applicants shall attend the Investigating Officer of the concerned Police Station from 26th September, 2022 to 30th September, 2022 between 10.00 A.M. and 12.00 Noon and thereafter as and when directed by the Investigating Officer.

8] Application is disposed of.

(NITIN W. SAMBRE, J.)