

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO.2699 OF 2021
WITH
INTERIM APPLICATION NO.425 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.2699 OF 2021**

1. Sambhaji Narayan Suroshi ...Applicant
2. Sudam Narayan Suroshi

Versus

The State of Maharashtra ...Respondent

....

Mr. Ajit Pitale for the Applicant.

Ms Rutuja Ambekar, APP for Respondent -State.

Ms Sandhya Malagin i/b. Mr. Anil D. Joshi for the Intervenor.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 21st MARCH, 2022.

P.C.:-

1. By this application filed under Section 438 of the Cr.P.C., the Applicants have sought pre-arrest bail apprehending their arrest in C.R. No.543 of 2021 registered with Kalyan Taluka Police Station for offence punishable under Section 420 r/w 34 of the IPC.

2 The Applicants are brothers of the first informant -Fasubai Belawale. The Complainant, the Applicants and their other four sisters are the owners of land under Survey Nos.82/2A, 82/2B, 82/2C, 82/3 and

82/4 of village Rayate, which was acquired by National Highway Authority for Badodara Highway. They were entitled for compensation of Rs.29,03,744/-each. The records reveal that Manikbai Sase, one of the sisters and the Applicants have received their share of compensation.

3. The FIR reveals that the Complainant and the other three sisters viz. Kusum Gaikar, Gulab Pondekar and Lilabai Gaikar had authorised the Applicants to receive compensation on their behalf and accordingly these Applicants have received Rs.1,16,14,976/-as compensation on behalf of the Complainant and the other three sisters, but have refused to give the same to them. Considering the nature of the dispute and the relationship between the parties an attempt was made to settle the matter amicably but unfortunately the Applicants have refused to give the money/ share of compensation to the sisters.

4. The FIR indicates that the Complainant and the other three sisters had authorised the Applicants to receive compensation on their behalf. The Applicants have not paid the said amount to the Complainant and the other three sisters. The statements of the other three sisters also prima facie indicate that the Applicants had obtained their signatures by misrepresenting that their signatures were required for obtaining

compensation. These witnesses have also claimed that the Applicants have not given them their share of compensation .

5. Learned counsel for the Applicants states that the Complainant and the other three sisters have filed a civil suit for cancellation of relinquishment deed and for other reliefs. He does not dispute that the Appellants have not relinquished their right in respect of the property under Survey Nos.82/2A, 82/2B, 82/2C, 82/3 and 82/4. He also accepts that the Applicants have received the money on behalf of the Complainant and the other three sisters and that the said money has not been given to them. He has not been able to demonstrate that the Applicants have authority or right to retain the money received on behalf of their sisters. Needless to state that the Applicants having received the money on behalf of the Complainant and the other three sisters, have no right to retain the same.

6. The material on record, particularly, the FIR and the statements of the other witnesses prima facie indicate that signatures were obtained with dishonest intention of cheating the Complainant and the other three sisters. Hence, the mere pendency of the civil suit would not wipe out the element of criminal nature, when the allegations levelled

in the FIR make out prima facie case of cheating.

7. Considering the nature of the offence and the material in support thereof, this is not a fit case for grant of pre-arrest bail. Hence, the application is dismissed.

8. The Interim application does not survive in view of dismissal of the Anticipatory Bail Application.

(SMT. ANUJA PRABHUDESSAI, J.)

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