

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.529 OF 2022

Sandeep S/o Amritlal Thaddani and another

Versus

State of Maharashtra, through P.S.O., P.S. Karanja (City), Tah. Karanja Lad, Dist.
Washim

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Shashank Manohar, Adv. a/w Shri A.P. Tathod, Adv. for the applicants.
Shri N.R. Rode, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : 27/07/2022

1. The applicants are seeking pre-arrest bail in connection with Crime No.292 of 2022, dated 01.06.2022, registered with Police Station Karanja, District: Washim, for the offences punishable under Sections 420, 465, 467, 471, and 472 read with Section 34 of the Indian Penal Code.

2. Shri Manohar, learned counsel for the applicants submits that even if the allegations made in the First Information Report (FIR), are taken on its face value the prosecution's story about involvement of the applicants in the alleged offence, is improbable, more particularly in view of the fact that an application for mutation in pursuance to the order dated 02.03.2011 was moved on 11.05.2022, and immediately on 12.05.2022, the mutation entry was effected without following any procedure.

3. It is pointed out that, in the complaint it is stated that on suspicion the complainant verified the genuineness of the order dated 02.03.2011 from the Collector office, on 23.05.2022. Thereupon, it was revealed that no such order was ever passed by the Collector. It is further pointed out that, though the complainant revealed the said fact on 23.05.2022, no complaint was lodged till 01.06.2022.

4. It is pointed out that, delay in lodgment of FIR is significant in the light of the defense raised by the parents of the applicant who are the co-accused. In paragraph-7 of their application for grant of pre-arrest bail, it was stated that in fact the complainant approached the parents of the applicant and assured them that, he will get the order for grant of land on lease from the Government in their favour. It is therefore, submitted that the applicants have been falsely implicated in the alleged offence.

5. On the other hand, Shri N.R. Rode, learned APP submits that one of the staff members of the Collector office is arrested and during the investigation, he has disclosed the name of the applicant. Thus, he submits that on statement of co-accused the applicants were arraigned as an accused in the present case.

6. He further submits that the investigation is going on and custodial interrogation of the applicants is necessary. Accordingly, he prays for rejection of the present application.

7. I have perused the Case Diary and FIR.

8. In this case, the allegations are that the accused persons have pretended that on 02.03.2011, the Collector has passed an order and in pursuance of which an application for mutation has been made, on 11.05.2022. Whereas, in fact the order dated 02.03.2011 is bogus and the signature of the Collector is forged one.

9. The learned APP while opposing the present application has relied upon the statement of one Suvernasingh Rajatsingh Tomar, who has stated that Amritlal Hariram Thaddani, Maya Govindram Basantwani and their son Sandeep Amritlal Thaddani, Deepak Govindram Basantwani submitted the application for mutation, to the concerned clerk, who had taken the entry of it in the inward register and handed it over to him and thereafter, the mutation entry was taken on 12.05.2022.

10. He further states that, as both the applicants were repeatedly requesting for providing the copy of

mutation entry, it created suspicion about the genuineness of the order, in his mind.

11. The applicants were arraigned as accused on a statement of co-accused. However, after going through the statement of witnesses or the said co-accused, *prima facie*, nothing incriminating found against the applicants. Moreover, considering the language of the order dated 02.03.2011, the fact that the mutation entry was taken in a single day without following the due procedure of law and even after revelation of fact that the said order is bogus one, the delay in lodging the FIR, it can be said that all this is not possible unless there is an involvement of the staff members of the Collector office. In the said backdrop, the defense raised by the non-applicant No.1 needs to be considered, which shows that the complainant approached the accused Nos.1 and 2 and assured them that he will get the order for grant of land on lease from the Government in their favour.

12. At this stage, there is nothing incriminating against the applicants except the statement of co-accused. As far as the statement of other witnesses are concerned, no role is attributed to the applicants in using official seals or stamps and making forged signatures of the Collector on the said order.

13. Thus, in absence of any incriminating material, I am of the opinion that the purpose would be served, if the applicants are directed to attend the Police Station and cooperate the Investigation Officer in investigation, with liberty to the State to apply for cancellation of bail in case, the Investigation Officer comes across any incriminating material against the applicants showing direct involvement of the applicants in the alleged offence. Accordingly, I pass the following Order:

- a) The criminal application is **allowed**.
- b) Order passed by this Court on 15.07.2022, granting *ad-interim* anticipatory bail, is confirmed with modification that the applicant shall attend the concerned Police Station on 1st to 6th of August, 2022 between 10.00 a.m. to 12.00 noon and thereafter, as and when his presence is required.
- c) The State is at liberty to apply for cancellation of bail, in case, during the investigation they come across any incriminating material against the applicants showing direct involvement of the applicant in the alleged offence.

- d) The learned APP clarified the submission made in the Paragraph-8 and he submits that it does not mean that they have used bogus seals.

The criminal application is **disposed of** accordingly.

[ANIL S. KILOR, J.]