

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

CRIMINAL APPLICATION (ABA) NO.840 OF 2021

(SHAIENDRI SHRIRAM AGRAWAL & OTH....VS.. STATE OF MAH. THR. PSO PS KHAMGAON
CITY, BULDHANA.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.V.Sirpurkar, Advocate for Applicants.
Shri V.A.Thakre, A.P.P. for Non-applicant/State.
Shri Tejas Deshpande, Advocate for Complainant (Assist Prosecution)

CORAM : ANIL S. KILOR, J.
DATED : MARCH 10, 2022.

1. Heard.
2. On the allegation that the applicant No.1 executed sale deed in favour of one Rajesh Jangid in the year 1987 and thereby she had lost title in the property in question, in spite of the same she executed sale deed in faovur of the complainant in the year 2014 and thereby the applicants have cheated the complainant, Crime No. 89 of 2019 was registered with police Station, Khamgaon City, District : Buldana for the offences punishable under Sections 406, 420, 120-B and 504 read with Section 34 of the Indian Penal Code. The applicants are seeking pre-arrest bail in the aforesaid crime.
3. This Court, vide order dated 07/12/2021 granted ad-interim anticipatory bail to the applicants and since then the applicants are attending the Police Station as per the condition imposed by this Court while granting ad-interim anticipatory bail. There is no complaint about misuse of liberty by the applicants, during this period.

4. Shri Sirpurkar, learned counsel for the applicants submits that the dispute is purely a civil dispute and the matter about genuineness of the sale deed executed in the year 1987 in favour of Rajesh Jangid is pending before the Civil Court by way of a suit filed by Rajesh Jangid and unless it is proved that the said Sale Deed was a genuine Sale Deed, it cannot be said that the applicants have cheated the complainant. He, therefore, prays for confirmation of the ad-interim order passed by this Court on 07/12/2021.

5. On the other hand, Shri Thakre, learned A.P.P. strongly opposed the application and submits that though the applicant No.1 had lost her right, title and interest in the plot in question and knowing well this fact the applicants could not have executed the sale deed in favour of the complainant, however, by executing such sale deed, the applicants have committed the alleged offence. He, therefore, prays for rejection of the said application.

6. Shri Deshpande, learned counsel appearing for the complainant, who is assisting the prosecution, reiterated the submissions made by the learned A.P.P. and he also prays for rejection of the present application.

7. There is no dispute raised by the learned A.P.P. or the learned counsel for the complainant that the suit filed by Rajesh Jangid, who is claiming title over the plot in

question, is pending. It is the case of the applicants that the said Sale Deed in favour of Rajesh Jangid was executed out of money lending transaction and that the said Sale Deed was not genuine one.

8. After going through the case diary and the contents of the F.I.R., *prima-facie*, I am of the opinion that the dispute involved is of civil nature and the decision in the case of Rajesh Jangid will decide whether the applicants had any right, title or interest in the land in question on the date of execution of the sale deed in favour of the complainant.

9. In the circumstances, I am of the opinion that this is a fit case for confirmation of the *ad-interim* protection granted to the applicants. Hence, I pass the following order:

i) The application is allowed.

ii) The order dated 07/12/2021 granting ad-interim anticipatory bail to the applicants, is confirmed with modification that the applicants shall attend the concerned Police Station as and when their presence is required.

The application stands **disposed of** accordingly.