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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.122 OF 2023

Mangaldas Nandlal Bhavare and Another	APPLICANTS
VERSUS	
The State of Maharashtra and Another	RESPONDENTS

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Mr. Bharatkumar R. Warma, Advocate for the applicants
Mrs. R. P. Gour, APP for respondent - State
Mr. Shailesh P. Brahme, Advocate for the informant

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[CORAM : NITIN B. SURYAWANSHI, J.]
DATE : 16th FEBRUARY, 2023

ORDER :

1. Applicants apprehend arrest in Crime No.301 of 2022 registered with Pimpalner Police Station, Pimpalner, Taluka-Sakri, District – Dhule for offence punishable under sections 420, 467, 468, 471, 34 of the Indian Penal Code.
2. On an application filed by Shivaji Thanak, learned Judicial Magistrate, First Class, Sakri had issued directions on 14th February, 2022 under section 156 (3) of the Criminal Procedure Code, pursuant to which the FIR in question is registered.
3. It is alleged by the informant that he and the applicants are trustees of Sakri Taluka Adivasi Seva Mandal (for short “Mandal”). Proceedings under section 41D of the Maharashtra Public Trusts Act are pending before the Joint Charity

Commissioner, Nashik. In the said proceedings, according to the informant, the applicants prepared forged documents and used them as genuine. Signatures of the then President of the Mandal were forged, so also fabricated affidavit was prepared by the applicants. On 24th July, 2010, bogus and fabricated resolution was prepared by the applicants in collusion with other accused persons named in the FIR. Proceedings dated 19th March, 2010 was prepared by applicant No.2 in his own handwriting and signature over the said proceedings book is false and bogus and the same is used by the applicants as genuine. Therefore, the applicants have committed the offence.

4. Heard learned advocate for the applicants, learned Additional Public Prosecutor for the State and the learned advocate for the informant. Perused the papers of investigation.

5. Learned advocate for the applicants submits that there is dispute between the trustees and proceedings are going on before various authorities. In the proceedings under section 41D of the Maharashtra Public Trusts Act pending before the Joint Charity Commissioner, Nashik, the informant as well as present applicants are respondents. They all have engaged one advocate and had filed reply, which was found to be cryptic. Hence, the applicants filed application for amendment to the written

statement and filed a detailed say / written statement, which is not liked by the informant and hence the informant has implicated the applicants in this concocted case.

6. Learned Additional Public Prosecutor strenuously opposed the application contending that custody of the applicants is required for obtaining their specimen handwriting and signatures and for effective investigation.

7. Learned advocate for the informant vehemently opposed the application stating that the offence is serious and custodial interrogation of the applicants is necessary in the facts of the present case.

8. Perusal of the investigation papers reveals that disputes are going on between the trustees of the Mandal. Various change reports are pending for consideration of the Assistant Charity Commissioner. Proceedings under section 41D of the Maharashtra Public Trusts Act are also going on before the Joint Charity Commissioner, Nashik.

9. The offence pertains to documents, which are already seized by the Investigating Officer and for that purpose custodial interrogation of the applicants is not necessary. Specimen handwriting and signatures of the applicants can be obtained by

directing them to appear before the Investigating Officer and for that purpose, their custody is not necessary.

10. In the facts of the present case, pre-trial custodial detention of the applicants is not necessary. In the result, the application is allowed. In the event of arrest of the applicants, in Crime No.301 of 2022 registered with Pimpalner Police Station, Pimpalner, Taluka- Sakri, District – Dhule for offence punishable under sections 420, 467, 468, 471, 34 of the Indian Penal Code, the applicants be released on furnishing Personal Bond of Rs.15,000/- each with one surety in the like amount.

11. Till filing of the charge sheet, the applicants shall attend the concerned police station as and when called by the investigating officer and shall co-operate in the investigation, by giving their specimen handwriting and signatures. The applicants shall not tamper prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE