

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.159 OF 2023

1. Shrikant Eknath Madne
2. Savita D/o. Eknath Madne @
Savita W/o. Sandipan Narwate Applicants

Versus

The State of Maharashtra
and another Respondents

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Mr. Ajit B. Kale, Advocate for the Applicants
Mr. A.A. Jagatkar, APP for Respondent Nos. 1 and 3 – State
Mr. P.R. Katneshwarkar, Advocate h/f Mr. S.B. Solanke,
Advocate for Respondent No.2

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 02nd MARCH, 2023

ORDER :

1. The applicants apprehend their arrest in connection with Crime No. 546 of 2022 registered with M.I.D.C. Police Station, Latur for offences punishable under sections 465, 466, 468, 474 read with 34 of the Indian Penal Code.

2. FIR is lodged by Shriram Arjun Madne, in short, alleging that both the applicants who are advocates have prepared forged 7/12 extract of the property Gat No.39, admeasuring 51 R situated at Baswantpur, Tq. And District

Latur, which was originally owned by Shankar Madne. The informant purchased 36.42 R portion of land out of 51 R portion of land from the legal heirs of Shankar Madne, and his name came to be mutated to the revenue record by certifying mutation entry No.660. The father of the applicants namely Eknath Shankar Madne and another legal heir Dhondiram Shankar Madne are the owner of 14.88 R out of Gat No.39. The applicants submitted 7/12 extract dated 01/12/2011 before this Court in Writ Petition No.7648 of 2019, wherein it is shown that the informant is owner of 26 R of land instead of 36.42 R and the applicants are shown owner of 25 R of land instead of 14.88 R. According to the informant, the said 7/12 extract is fabricated document. The informant, thereafter, inquired with the Tahsil Office and sought information, and he was informed that 7/125 extract produced by the applicants dated 01/12/2011 is not correct. The informant, therefore, claimed that the applicants forged 7/12 extract by joining hands with the employees of Setu Suvidha Centre, and submitted the forged 7/12 extract in Writ Petition No.7648 of 2019, and committed offence of cheating.

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

4. Admittedly, civil dispute is going on between the parties i.e. RCS No.448 of 2017, which is filed by the applicants for partition and separate possession of the ancestral property bearing Gat No.39. Proceedings were also filed before this Court i.e. Writ Petition No.7648 of 2019 seeking direction to include the name of the applicants in the land acquisition proceedings, and to pay compensation to the applicants in respect of acquisition of their land bearing Gat No.39 situated at village Baswantpur, Taluka and District Latur.

5. The Division Bench of this Court vide order dated 03/12/2019, directed the petitioners to approach the concerned authority, who has published the public notice and grievance of the petitioner would be considered by the said authority on its own merits. Pursuant to the direction of the Division Bench, the Sub Divisional Officer and Land Acquisition Officer, Latur vide order dated 20/10/2020, directed that after decision of RCS No.448 of 2017, the acquired land shall be purchased by private negotiation.

6. According to the applicants, they have received 7/12 extract from Setu Suvidha Kendra. It is further their case that from time to time there appears variance in 7/12 extract in respect of the area of the land Gat No.39. They have not derived benefit from the alleged forged document, and according to them, they are not the author of the document.

7. Learned Additional Public Prosecutor and the learned advocate for the informant, on the other hand, submit that the custody of the applicants is necessary to ascertain as to from where they could obtain forged 7/12 extract, and who has helped them in obtaining the forged document. The investigation is at preliminary stage, and therefore, for effective investigation, custody of the applicants is necessary.

8. Considering the fact that civil dispute is pending between the parties, and the entire case is based on documents, which are already seized by the Investigating Officer, and both the applicants are practicing advocates at District place, this Court is of the view that protection needs be granted to the applicants.

9. In the result, application is allowed.

10. In the event of arrest of the applicant in Crime No. 546 of 2022 registered with M.I.D.C. Police Station, Latur for offences punishable under sections 465, 466, 468, 474 read with 34 of the Indian Penal Code, the applicants shall be released on executing Personal Bond of Rs.15,000/- each with one surety in the like amount.

11. The applicants shall attend the concerned police station from 13th March, 2023 to 18th March, 2023 between 10 a.m. to 05.00 p.m. and shall co-operate in the investigation.

12. Thereafter, till filing of charge sheet, applicants shall attend the concerned police station as and when called by the investigation officer and shall co-operate in the investigation. The applicants shall not tamper the prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane