

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 465 OF 2023

Ramrao Khanderao Mane ...Applicant

Versus

The State of Maharashtra, ...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 466 OF 2023

Rajebhau Nagorao Somwanshi ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. S. N,. Lale Yelwatkar, Advocate for the Applicant
in ABA/465/2023

Mr. S. S. Dambe, Advocate for the Applicant in
ABA/466/2023.

Mr. V. S. Badakh, APP for Respondent.

CORAM : R.M. JOSHI, J.

RESERVED ON : JULY 07, 2023
PRONOUNCED ON : JULY 11, 2023

ORDER

1. This case *prima facie* discloses unique way of commission of offence whereby at the cost of the State a well is got dug by Applicant – Ramrao on the basis of gift deed of his land in favour of the Government and after the well is constructed, a correction deed is

executed whereby the situation of the land changed by changing the boundaries thereof. Applicant – Rajebhau is Gramsevak, who was already transferred and had no concern with the said work becomes party to execution of such correction deed.

2. These Applicants apprehend arrest in connection with Crime No. 70 of 2023 registered with Renapur Police Station, Dist. Latur for the offences punishable under Sections 420, 468, 471 read with Section 34 of the Indian Penal Code.

3. Deputy Engineer, Rural Water Supply Department, Renapur gave report to the police that on 16.06.2021 Applicant Ramrao executed registered Gift Deed whereby he gifted 2R land from Gut No. 195 situated at village Harwadi for the purpose of construction of well for public water supply. Accordingly, the well was constructed. In December, 2022, Grampanchayat elections took place and Ramrao became ex sarpanch of the village. He thereafter started claiming the well to be his private property and has obstructed the water supply from the well to the villagers. Thereafter a correction deed was

executed by Ramrao in collusion with Rajabhau (Ex Gramsevak) to support claim that it is private property of Ramrao.

4. Learned Counsel for the Applicant - Ramrao states that there is no fraud played by Ramrao as he had on his own donated the land admeasuring 2R from Gut No. 195 to the Government and only after it was realised that there was error committed in describing the property appropriate correction deed was executed. To support his submissions, he placed reliance on the document which shows that the a well exists in Gut No. 190 which was never donated by Ramrao to the Government. It is contended that only because of political rivalry false report has been lodged against him.

5. Learned Counsel for Applicant - Rajebhau states that since he was Gramseveak of the concerned village when the gift deed was executed by the Ramrao, he thought it appropriate to execute the correction deed. It is contended that there are malafides on his part in becoming party to the said document.

6. Learned APP opposed the applications by contending that it is unique way of committing a crime and duping the money of the State. It is submitted that though Gut No. 195 is mentioned in the gift deed, however, on the basis of boundaries mentioned therein a well was constructed and the same has been done in presence of son of Ramrao. It is further argued that after the well got constructed, which costed more than Rs. 40 lacs, now a correction deed is executed whereby the boundaries of the land gifted to the Government are changed in order to stake claim of the well being his private property. As regard Rajebhau, who was Gramsevak at the relevant time of execution of gift deed, it is submitted that when the correction deed is executed he was not Gramsevak of the same village and therefore, he had no business in execution of correction deed. On the face of it, the same is done with a view to help Ramrao and that the said evidence on record is sufficient to hold that in collusion, crime in question is committed.

7. There is no dispute about the fact that the Ramrao by executing gift deed dated 16.06.2021, which

is duly registered with office of Sub-Registrar, Renapur, has gifted 2R land for the purpose of construction of well in public interest. The said document clearly shows boundaries of the said 2R land. Though it is mentioned in the document that 2R land is from Gut No. 195, however, there is material on record to indicate that the well was constructed on the basis of boundaries shown in the said gift deed. Further material is placed on record to show that more than amount of Rs. 40 lacs was spent on the construction of the said well. It is only after construction of the well was completed and after the Applicant no more remains Sarpanch of Grampanchayat, he claims that the said well belongs to him. It is only thereafter a correction deed was executed whereby the boundaries of the gift deed were changed. Notably, with change of boundaries the situation of the land wherein the well is constructed is completely changed in document/record. Perusal of the record indicates that prior to year 2021 there was no well shown to be in existence even in Gut No. 190. The entry in respect of the well in Gut No. 190 appears to have been taken by Applicant Ramrao himself through online app.

8. Record indicates that on the basis of the boundaries mentioned in the gift deed well was constructed and huge amount is spent from the State Exchequer. There is absolutely no material placed on record by the Applicant - Ramrao to show that in fact he constructed the said well. There is also nothing on record to indicate that any such well existed in Gut No. 190 also prior to construction of well at the cost of State. Thus, it is clear that *prima facie* Applicant Ramrao by executing gift deed in favour of State has induced the State for construction of well for public purpose and thereafter wisely correction deed is executed whereby the situation of well is changed in order to facilitate his claim of exclusive right over it. This clearly amounts to an offence punishable under Section 420 of IPC. As far as other offences are concerned, there are specific allegations that forged resolutions of Grampanchayat were used for the purpose of getting the said correction deed executed and mutating the record accordingly.

9. As far as Applicant - Rajebhau is concerned, admittedly he was Gramsevak on 16.06.2021 of village

Harwadi, however, at the time of execution of correction deed he had no concern with the said Grampanchayat. The explanation given by him is on the face of it unacceptable that since he was the signatory to the gift deed correction deed was executed and accepted by him. Pertinently, the acceptance of gift on the basis of deed done by him was not in his individual capacity but as Gramsevak and on behalf of Grampanchayat Hirwadi. Thus, he had no business or concern of whatsoever nature to execute the correction deed. *Prima facie* there is reason to believe that since present Gramsevak could not have been party to correction deed, this Applicant obliged Ramrao to execute correction deed. There is sufficient evidence against both Applicants showing their complicity in this crime. The investigating agency is fully justified in seeking custodial interrogation of the Applicants in order to find out as to when and how the bogus resolutions were prepared and how other applicant is benefited by it.

10. Having regard to the nature of offence and considering involvement of huge public money, there is need of custodial interrogation of the Applicants,

hence, it is not the fit case of grant of anticipatory bail. Hence, applications are rejected.

LATER ON:

1. After pronouncement of the order, learned Counsel for the Applicant seeks continuation of interim relief.

2. Learned APP opposed the said request.

3. Since there is interim relief in favour of the Applicants, the same is continued for a period of four weeks.

(R.M. JOSHI, J.)

Malani