

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

935 ANTICIPATORY BAIL APPLICATION NO.475 OF 2023

1. Yogesh Zinga Ahire,
 2. Smt. Lalita Pradip Barde,
 3. Manoj Dayaram Pawar,
 4. Sandip Madhu Pawar,
 5. Paregabai Shivaji Kapure,
 6. Umesh Shivaji Manga Kapure,
 7. Bajyabai Manoj More
- ...Applicants

VERSUS

The State of Maharashtra

...Respondent

...
Advocate for Applicants : Mr.Rahul B. Patil
APP for Respondent-State : Mr. K.N.Lokhande
Advocate for Assist to learned APP : Mr. Yogesh B. Bolkar
...

CORAM : R. G. AVACHAT, J.
DATE : 19.04.2023.

PER COURT :

1. Heard.
2. This Court on appreciation of almost all the facts has protected the present applicants vide order dated 05.04.2023.

3. The learned Advocate for the informant and the learned APP for the respondent/State would submit that the informant has in-fact been duped, inspite of having received the agreed amount, the legal representatives of Sundarabai have again received an amount of Rs. 2,00,000/- and instead of executing the sale deed, pursuant to agreement to sell, a forged will is shown to have been executed by the deceased Sundarabai in their faour.

4. On appreciation of entire facts, the Court finds it to be a matter to be decided by the Civil Court. Sundarabai had executed a power of attorney in favour of the informant on 30.12.2006. The said power of attorney is shown to have been registered on 14.02.2007. It is also the case of the informant that Sundarabai agreed to sell her land in his favour for the consideration of Rs.2,00,000/-. The Bharna Pavati acknowledgment receipt/possession receipt was executed on 14.02.2007 itself. Unfortunately, Sundarabai passed away on 06.04.2017. Thereafter, the applicants who are the Class-I heirs of the deceased Sundarabai again insisted the informant to enter into an agreement for sale of the land. They even

received Rs. 2,00,000/- from the informant. Then it was realized that they forged the will of Sundarabai in their favour.

5. The informant, instead of approaching the Civil Court for the relief of specific performance of agreement to sell executed either by the late Sundarabai or the applicants being the Class-I heirs, filed an application under Section 156 (3) of the Code of Criminal Procedure, pursuant to which the First Information Report came to be registered.

6. Considering the entire factual matrix, it is evident that the case is based on documentary evidence. Some of the applicants have moved the Civil Court for grant of probate. The informant has intervened in the said matter. Be that as it may. The facts and circumstances of the case do not warrant arrest of the applicants. In view of the same, the order granting interim protection dated 05.04.2023 is hereby made absolute. The application is allowed and disposed of.

(R. G. AVACHAT)
JUDGE

mahajansb/