

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 543 OF 2022

1. Sarjerao S/o. Pandurang Hadule
2. Uddhav S/o. Tulshiram Dhapate Applicants

Versus

The State of Maharashtra
and another Respondents

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Mr. Amarnath S. Sakhare, Advocate h/f Mr. S.R. Sapkal,
Advocate for the Applicants
Mr. A.V. Deshmukh, APP for Respondents – State

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WITH
ANTICIPATORY BAIL APPLICATION NO. 524 OF 2022

Balasaheb S/o. Ashruba Tandale Applicant

Versus

The State of Maharashtra Respondent

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Mr. Mayur V. Salunke, Advocate for the Applicant
Mr. A.V. Deshmukh, APP for Respondents – State
Mr. N.E. Deshmukh, Advocate for the Informant

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WITH
ANTICIPATORY BAIL APPLICATION NO. 534 OF 2022

Narhari Rambhau Shelke Applicant

Versus

The State of Maharashtra Respondent

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Mr. Jagdish V. Deshpande, Advocate for the Applicant
Mr. A.V. Deshmukh, APP for Respondents – State

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WITH

ANTICIPATORY BAIL APPLICATION NO. 542 OF 2022

Parmeshwar Karbhari Rakh Applicant

Versus

The State of Maharashtra Respondent

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Mr. S.S. Thombre, Advocate for the Applicant

Mr. A.V. Deshmukh, APP for Respondents – State

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WITH

ANTICIPATORY BAIL APPLICATION NO. 670 OF 2022

Bappasaheb Sitaram Khod Applicant

Versus

The State of Maharashtra Respondent

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Mr. S.S. Thombre, Advocate for the Applicant

Mr. A.V. Deshmukh, APP for Respondents – State

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WITH

ANTICIPATORY BAIL APPLICATION NO. 525 OF 2022

1. Ashok S/o. Panditrao Pingle

2. Shrimant S/o. Bapu Maske

3. Sakharam S/o. Baburao Maske Applicants

Versus

The State of Maharashtra Respondent

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Mr. Amarnath S. Sakhare, Advocate h/f Mr. S.R. Sapkal,
Advocate for the Applicants

Mr. A.V. Deshmukh, APP for Respondents – State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 22nd FEBRUARY, 2023

ORDER :

1. The applicants apprehend their arrest in connection with Crime No. 53 of 2022 registered with Beed Rural Police Station, District Beed for the offence punishable under sections 420, 406, 409, 448, 468, 471, 120-B read with 34 of the Indian Penal Code and under section 52 (A) of the Wakf Act, 1995.

2. Aminu Jama Khiliku Jama, District Wakf Officer, Beed lodged FIR alleging that land bearing Gut No.128 admeasuring 25 acres and 38 gunthas situated at Sarangpura Masjid, Beed is *Khidmad-mash* land, owned by Wakf Board, entry of which has been taken in government of Maharashtra gazette dated 24.01.1974. One Roshan Ali Munwar Ali was the Inamdar of the said land, who, by registered document dated 29.06.1987 leased out the property for 99 years to Dinkar Dnyanoba Giram and accordingly name of Dinkar Dnyanoba Giram came to be entered in other rights column in the 7/12 extract. To delete the name of Dinkar Giram and to hand over possession of the entire land, the Wakf Board has made applications to the concerned Revenue Officers time and again but no

possession has been handed over so far. A mutation entry came to be effected on 03.09.1977 for deleting name in ownership column but no effect has been given to it. Instead of that the herein some of whome are revenue officers in collusion with each other got prepared false and fictitious documents.

3. Heard learned advocates for the applicants, learned Additional Public Prosecutor for the State and the learned advocate for the Informant. Perused the documents placed on record.

4. According to the applicants in anticipatory bail application Nos.543 of 2022 and 525 of 2022, the Wakf Board is trying to challenge lease deed after long period. Merely because the applicants applied for conversion of land, that does not mean that they have committed any offence. The entire dispute is of civil nature, however, police machinery has wrongly registered the crime.

5. According to the applicant in anticipatory bail application no.524 of 2022, at the relevant time who was working as Talati, he has effected mutation entry as per the order of his superior after filing of an application by the land

owners. The mutation entry has been duly certified by the superior officer.

6. According to the applicant in anticipatory bail application no.534 of 2022, at the relevant time, who was Deputy Collector, he has been falsely implicated in the aforesaid crime without there being any evidence. None of the provision of alleged offences get attracted against him. It was the duty of the applicant to deliver the judgments. The order passed by the applicant was set aside by the Additional Collector and the matter was remanded for fresh enquiry and the order passed by him is not in existence. The applicant has done his official duty.

7. According to applicant in anticipatory bail application No.542 of 2022, at the relevant time, he was Circle Inspector and merely because he has certified the mutation entry effected by the Talati, he has been false implicated. The applicant, while certifying the mutation entry has acted in official capacity and mutation entry was made as per order of Sub Divisional Officer. According to him he has certified mutation entry after taking into consideration the procedure prescribed therefor and there are no lapses on his part.

8. According to the applicant in anticipatory bail application No.670 of 2023, at the relevant time, who was working as Senior Clerk, he has no concern with the alleged crime. His name was not mentioned in the FIR as well as his name was also not disclosed in the investigation.

9. Learned Additional Public Prosecutor opposed the applications stating the applicants have acted on false and fabricated documents conspiring with Revenue Officers and so called cultivators/owners of the land. So far as the Revenue Officers are concerned, they were well aware of the Government gazette issued in the year 1974 and could not have passed order converting land from Class-II to Class-I.

10. The fact remains that the applicants in anticipatory bail application Nos.524 of 2022, 534 of 2022 and 542 of 2022 being Revenue Officers have passed the order in a quasi judicial capacity, and the same order is amenable to challenge before the appropriate forum. The Revenue officers can claim protection of Judges (Protection) Act, 1985.

11. FIR is lodged on 21/02/2022, and by this time investigation appears to be on the verge of completion. Admittedly, the prosecution case is based on documents,

which are already seized by the Investigating Officer. Nothing is to be recovered from the applicants.

12. The applicants were granted interim protection and he has co-operated in the investigation, and in view of completion of investigation and filing of charge-sheet, pre-trial custodial detention of the applicants is not necessary.

13. Learned Additional Public Prosecutor submits that investigating officer has reserved his right to conduct further investigation under section 173(8) of Cr.P.C., if any material is found during the course of further investigation, the prosecution may be given liberty to apply for cancellation of anticipatory bail. This liberty is always there with the prosecution.

14. In the result, the application is allowed. In the event of arrest of the applicant in connection with Crime No. 53 of 2022 registered with Beed Rural Police Station, District Beed for the offence punishable under sections 420, 406, 409, 448, 468, 471, 120-B read with 34 of the Indian Penal Code and under section 52 (A) of the Wakf Act, 1995, the applicants shall be released on executing Personal Bond of Rs.15,000/- each with one surety in the like amount.

15. Till filing of the charge-sheet, the applicants shall attend the concerned police station as and when called by the Investigating Officer. The applicants shall not tamper the prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE

S.P Rane