

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 599 OF 2023

Surendra @ Sunil S/o Damodhar
Tupe,

Age : 52 years, Occ: Agri,
R/o. Keligavan, Badnapur,
Tq. Badnapur, Dist. Jalna

...Applicants

Versus

1. The State of Maharashtra,
Through Police Station
Badnapur, Tq. Badnapur,
Dist. Jalna.

2. The Superintendent of Police,
Jalna, Dist. Jalna.

...Respondents

Mr. G. G. Suryawanshi, Advocate for the Applicant.
Mr. G. O. Watamwar, APP for Respondent – State.

CORAM : R.M. JOSHI, J.

**RESERVED ON : JUNE 05, 2023
PRONOUNCED ON : JUNE 09, 2023**

ORDER

1. Applicant is apprehending arrest in connection with Crime No. 454 of 2020 registered with Badnapur Police Station, Dist. Jalna for the offences punishable under Sections 465, 466, 467, 468, 471, 420 read with Section 34 of the Indian Penal Code.

2. Eknath Kanhere gave information to the police

that agricultural lands bearing Gut Nos. 16, 22, 236, 237, 238 and 242 stand in his and wife's name and they are in possession of the same. In the year 2017 he had obtained certified copies of the 7/12 extract, which indicate that name of Laxman, brother-in-law of the informant was not recorded therein. However, in the year 2020 when again said 7/12 extracts were obtained it showed name of Laxman on the basis of a mutation entry. It was found that the original record of the revenue document was tampered and Laxman with the help of someone has effected mutation entry and thereby the concerned lands were transferred in his name. On the basis of said information offence came to be registered.

3. Learned Counsel for the Applicant states that the name of the Applicant is not appearing in the FIR and that there is no material on record to show his involvement in the crime. It is submitted that there was previous disputes between Laxman and informant and civil proceedings are pending. It is claimed that owing to the said dispute, present FIR has been lodged. It is further argued that Applicant is not beneficiary of the

alleged crime and for no purpose his custodial interrogation is necessary.

4. Learned APP strenuously opposed the said contention by referring to the investigation papers. He drew attention of the Court to the statements of Talathi and Tehsildar, which according to him indicate that the concerned mutation entries are bogus and official record has been tampered in order to enter the name of the Laxman in respect of aforestated lands. It is submitted that there is CDR record in order show the conversation between Applicant and co-accused Laxman. According to him, having regard to the nature of offence custodial interrogation of the Applicant is necessary in order to ascertain as to the manner in which official record of the revenue department was accessed and tampered with.

5. No doubt name of the present Applicant does not appear in the FIR, however, there is specific allegation that Laxman with the help of someone has prepared bogus mutation entries to enter his name on record in respect of said lands. Investigation conducted till date indicates that the mutation entries

on the basis of which name of Laxman was entered into the record are bogus. It is pertinent to note that the statement of Talathi, who claims to be conversant with the handwriting of the present Applicant, has stated that the handwriting found in the disputed/forged entries belong to the Applicant. Though it is a fact that undisputed handwriting of Applicant on the admitted documents as well as disputed (forged entries) document are referred to the handwriting expert, however, at this stage, statement of Talathi, who is well conversant with the handwriting of Applicant, is sufficient to show involvement of the Applicant in the crime of preparing bogus entries and tampering of record. Statement of Tehsildar and other persons also indicate that these entries are neither taken nor signed by them.

6. Further, Talathi in his statement has categorically stated that on 31.05.2019 Applicant came along with Laxman and informed him that on earlier occasion he did not concede the request of Laxman to retain his name in the record of rights however, now entire lands are being mutated in his name. Apart from

this statement, there is ample material on record to show nexus between present Applicant and co-accused Laxman.

7. The manner in which the offence in question is committed is serious one, the custodial interrogation of the Applicant would, therefore, be necessary in order to ascertain as to how the record of office of Talathi was forged and how he could get the access thereto. It also needs to be ascertained whether any tampering is done in respect of other records/lands. For this purpose, effective investigation cannot be done without custodial interrogation of the Applicant. It is a matter of investigation to ascertain what benefit the Applicant has received from the said crime.

8. Having regard to the nature of offence and the circumstances appearing from the investigation carried out till date & considering needs of effective investigation, it would not be sufficient to direct Applicant appear before investigating officer by extending protection from arrest. Hence, the Application stands dismissed.

(R.M. JOSHI, J.)