

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1570 OF 2021

Narhari S/o. Rambhau Shelke Applicant

Versus

The State of Maharashtra
and another Respondents

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Mr. Anandsingh S. Bayas, Advocate for the Applicant
Mr. A.V. Deshmukh, APP for Respondents – State
Mr. N.E. Deshmukh, Advocate for the Informant.

WITH

ANTICIPATORY BAIL APPLICATION NO. 691 OF 2022

Pradip S/o. Devidas Pandule Applicant

Versus

The State of Maharashtra
and another Respondents

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Mr. S.S. Thombre, Advocate for the Applicant
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. 245 of 2021 registered with Ambhora Police Station, District Beed for the offence punishable under sections 420, 467, 468, 471, 120-B read with 34 of the Indian Penal Code and under section 52-A of the Wakf Act, 1954.

2. Aminu Jama Khiliku Jama, District Wakf Officer, Beed lodged complaint alleging that lands of *Masjid* and *Dargah* situated at village Devi Nimgaon, Taluka Ashit are *inam* lands from the era of Nizam, which are the Wakf properties. Sayyed Mohiyoddin and Sayyed Akbar Ali are the *Archaks*, and they by making fabricated documents and entering in conspiracy with present applicants, transferred the Masjid lands in the name of Khajamiya Maqbul Sayyed, resident of Devi Nimgaon without permission of Wakf Board. The above persons in collusion with present applicants had made false and bogus documents and got mutated said lands of *Dargah* in their names and made sell purchase transactions. Applicants and above said persons have cheated Wakf Board, and they have caused wrongful loss to Wakf Board and Government.

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

4. Learned Additional Public Prosecutor opposed the application stating that the applicants 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.

5. Both the applicants in the present applications are revenue officers, who have passed orders in the proceedings filed before them.

6. The fact remains that the applicant in application No.1570/2021 being Deputy Collector has passed the order in a quasi judicial capacity, and the said order is amenable to challenge before appropriate forum. He can claim protection of Judges (Protection) Act, 1985.

7. It appears that applicant in anticipatory bail application No.1570 of 2021 is compulsorily retired on 12/08/2018.

8. The FIR is lodged on 01/11/2021, and by this time investigation appears to be on the verge of completion. Admittedly, the prosecution case is based on documents and revenue record, which are already seized by the Investigating Officer. Nothing is to be recovered from the applicants.

9. The applicants were granted interim protection and they have co-operated in the investigation. In the facts of the present case, pre-trial custodial detention of the applicants is not necessary.

10. Learned Additional Public Prosecutor, however, 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. That liberty is always there with the prosecution.

11. In the result, the applications are allowed. In the event of arrest of the applicants in connection with Crime No. 245 of 2021 registered with Ambhora Police Station, District Beed for the offence punishable under sections 420, 467, 468, 471, 120-B read with 34 of the Indian Penal Code and under section 52-A of the Wakf Act, the applicants shall be released on executing Personal Bond of Rs.15,000/- each with one surety in the like amount.

12. 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 prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE

S.P Rane