

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1266 OF 2022

1. Sayyed Razzaq S/o. Sayyed Jafar
2. Sayyed Rais S/o. Sayyed Jafar Applicants

Versus

The State of Maharashtra Respondent

.....

Mr. Angad L. Kanade, Advocate for the Applicants
Mr. A.V. Deshmukh, APP for Respondents – State

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WITH

ANTICIPATORY BAIL APPLICATION NO. 439 OF 2022

Anusaya W/o. Vishwanath Nirde Applicant

Versus

The State of Maharashtra Respondent

.....

Mr. Vivekanad B. Deshmukh, Advocate for the Applicant
Mr. A.V. Deshmukh, APP for Respondents – State

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WITH

ANTICIPATORY BAIL APPLICATION NO. 434 OF 2022

1. Bibhishan S/o. Rangnath Bodhwad
2. Shital W/o. Ganesh Irmale @
Shital D/o. Bibhishan Bodhwad Applicants

Versus

The State of Maharashtra Respondent

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Mr. Amarnath S. Sakhare, Advocate hf/ Mr. S.R. Sapkal,
Advocate for the Applicants
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. 495 OF 2022

1. Abhimanyu S/o. Rangnath Bodhwad
2. Snehal W/o. Abhimanyu Bodhwad Applicants

Versus

The State of Maharashtra Respondent

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Mr. Vivekanand B.Deshmukh, Advocate for the Applicants
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. 569 OF 2022

Pradip S/o. Vishwanath Aghav Applicant

Versus

The State of Maharashtra
and another Respondents

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Mr. S.S. Kazi, Advocate for the Applicant
Mr. A.V. Deshmukh, APP for Respondents – State

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WITH

ANTICIPATORY BAIL APPLICATION NO. 653 OF 2022

Parmeshwar Kashinath Komatwar Applicant

Versus

The State of Maharashtra Respondent

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Mr. Sudarshan J. Salunke, Advocate for the Applicant
Mr. A.V. Deshmukh, APP for Respondents – State

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WITH

ANTICIPATORY BAIL APPLICATION NO. 786 OF 2022

Poonam D/o. Dayaram Poundekar Applicant

Versus

The State of Maharashtra Respondent

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Mr. Angad L. Kanade, Advocate for the Applicant
Mr. A.V. Deshmukh, APP for Respondents – State

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WITH

ANTICIPATORY BAIL APPLICATION NO. 938 OF 2022

Habiboddin S/o. Sardaroddin Siddiqui Applicant

Versus

The State of Maharashtra
and another Respondents

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Mr. S.S.Kazi, 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. 32 of 2022 registered with Dindrud Police Station, District Beed for the offence punishable under sections 420, 406, 467, 468, 471, 447, 448, 120-B, 409 read with 34 of the Indian Penal Code.

2. Aminu Jama Khiliku Jama, District Wakf Officer, Beed lodged FIR alleging that he is serving as Wakf Officer since 2013 and doing the work of maintaining/ looking after the landed Wakf properties of Muslim religion such as Dargah, Masjid, Kabrasthan. The entry of Masjid of Nitrud, Tal. Majalgaon and the Inami land of Wakf Board, Survey No. 36 and 37 and Gat No.429 area 44 Acre 08 R is mentioned at Sr. No.1 in the Maharashtra State Gazette dated 14.02.1974. The said land's entry in revenue record is as Khidmat Mash Inami land. Even after that, the then Deputy Collector illegally abolished the said Khidmatmash Land on 31.03.1982 as per Hyderabad Abolition of Inams and Cash Grants, Act, 1954. The said Survey no. 36 and 37 have been sold and purchased illegally by co-accused Parmeshwar and other co-accused including the present applicants by preparing forged NOC in collusion with Chief Executive Officer, Maharashtra State Wakf Board, Aurangabad vide order No-मराव/एसएनटी-203/1532/2013 dated 11.06.2013. Co-accused Parmeshwar and other co-accused including the present applicants in collusion with revenue officers and employees got abolished Khidmatmash Inami land into *Madad-mash* inami land and the same is got transferred and mutated in their names vide mutation no.7970 dated 22.07.2013.

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.1266 of 2022, they being the legal heirs of deceased Sayyad Jafar Sayyad Ibrahim. Mutation entry no. 909 in connection with the land in question has come to be certified in their names on 29.02.1986. Since then the 7/12 extract of the said land was in their names till the execution of alleged sale deed no.2643/2013. The aforesaid mutation was never challenged by the informant before any competent court or authority. The FIR is belatedly lodged.

5. According to the applicant in anticipatory bail application No.439 of 2022, the allegations made against her are vague. The land involved the matter is actually *Madad-mash* land as per Muntakhab no.984, 1298 Fasli,. Moreover revenue authorities granted Virasat dated 15.10.1343 Fasli and held Survey no. 37 to be *Madad-mash* land. So also Deputy Collector in his order dated 31.03.1982 endorsed the same finding. Hence, basically as the land in question is

Madad-mash land as such the allegation is *prima facie* against documents so offence could not have constituted against the applicant. The applicant is old aged woman having no criminal antecedents. The permission granted by the Revenue Office to convert the land is yet intact and it is not challenged. All documents in favour applicant are legal. She is *bona-fide* purchaser for valuable consideration. The sale deed is of year 2013 and for about 10 years, yet not cancelled. The permission is of the year 1982 i.e. 40 years back. The allegations in FIR are of pure civil nature.

6. According to the applicants, the allegations made against them are vague. The FIR is registered after inordinate delay of more than 40 years and the orders of Deputy Collector, Land Reforms Beed, Additional District Collector, Beed, Chief Executive Office, Wakf Board, Aurangabad are intact till today. No complaint is lodged against these orders of Survey no. 36, 37 and Gat No. 429 within 40 years. The perusal of FIR and various documents in this matter does not exhibit that the applicants have done any wrongful act. There is no material on record to connect these applicants with the crime in question.

7. According to the applicant in anticipatory bail application no.738 of 2022, the FIR does not contain any allegation showing his active role or active participation in the alleged crime. The matter is of civil nature. The applicant has no criminal antecedents. He is served with false notice under section 41-A of the Code of Criminal procedure. He had initially filed a suit before Wakf Tribunal, Aurangabad but later on the said suit was withdrawn so as to file appropriate proceeding before MRT. Accordingly, he has preferred revision petition for delay condonation application and the same is pending for consideration.

8. 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.

9. The fact remains that some of the applicants 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.

10. FIR is lodged on 08/03/2022, 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.

11. 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.

12. 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.

13. In the result, the application is allowed. In the event of arrest of the applicant in connection with Crime No. 32 of 2022 registered with Dindrud Police Station, District Beed for

the offence punishable under sections 420, 406, 467, 468, 471, 447, 448, 120-B, 409 read with 34 of the Indian Penal Code, the applicants shall be released on executing Personal Bond of Rs.15,000/- each with one surety in the like amount.

14. 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