

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

**ANTICIPATORY BAIL APPLICATION NO.1292 OF 2022
WITH APPLN/3343/2022 IN ABA/1285/2022
WITH APPLN/3668/2022 IN ABA/1292/2022**

**ZAKIR KHAN MOHAMMED KHAN PATHAN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...
Mr. S.P. Brahme, Advocate h/f Mr. Sushil P. Pandit, Advocate for
Applicant

Mr. A.V. Deshmukh, APP for Respondents – State
Mr. J. S. Gangawane, Advocate for Informant

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 20th FEBRUARY, 2023

PER COURT :

1. Applicant apprehends arrest in Crime No.576/2022, registered with Nandurbar City Police Station, Nandurbar, for offence punishable under Sections 420, 468, 471, 406 read with 34 of the Indian Penal Code.

2. Lilabai Manik Mali lodged the FIR against 7 accused persons. Applicant was, at the relevant time, Talathi and Circle Officer. It is alleged that during the period between 22/07/2021 to 07/09/2022, accused persons in furtherance of their common intention and applicant being Talathi and Circle Officer of Nandurbar Saja, deleted name of informant's husband, father-in-law and mother-in-law using whitener, from the revenue record of her

tenanted ancestral properties being Survey Nos. 577/1/1, 577/1/2 and 577/3 and entered name of accused Nos. 1 and 2. Thereafter accused Nos. 1 and 2 sold the said properties to accused Nos.3 to 5 without taking necessary permission under the Tenancy Act and without paying Nazrana amount. Accused No.6 being Manager of IDBI Bank, Branch at Nandurbar, created charge of Rs.7,38,000/-, on the said properties. Thus, it is alleged that accused persons in collusion with each other have committed falsification of record and forgery and have committed criminal breach of trust.

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

4. During the course of hearing original mutation entries' register and report of the Tahsildar are placed on record by learned Additional Public Prosecutor. Investigating officer has also filed his reply. He has stated that it is revealed during the course of investigation that on the basis of alleged certificate purportedly issued by Tahsildar dated 02/02/2002, Mutation Entry Nos. 26221 and 26637 are recorded. On inquiry with the Tahsil office in respect of issuance of certificate, it is revealed that there is no record available in the Tahsil office regarding issuance of said Tenancy Certificate in the name of Ujwala Dilip Jain and Dilip Suwalal Jain.

On the basis of said tenancy certificate, applicant in the capacity of Talathi has taken Mutation Entry No.26221 in the mutation register. The said entry appears to have been taken after scoring earlier entry by applying whitener.

5. Thereafter, Mutation Entry No.41351 is taken in respect of land Survey No.577/3. Though at the relevant time Talathi was different, signature of the applicant is there on record, in the right side column. Applicant was serving as Circle Officer at the relevant time and he has sanctioned the said entry. It is revealed from the said register that earlier entry No.41351 was cancelled and other entry is taken. Prior to this, Mutation Entry No.41350/A was mentioned in different ink. So, *prima facie* it appears that applicant has manipulated the record. Applicant has taken entries in 7/12 extract register. The said original register shows that whitener is applied while taking entries. Applicant being Talathi, he was to make changes in the said register and no one other than applicant or circle officer has access to the said record.

6. Taking into consideration material collected during the course of investigation, custody of applicant is necessary for effective investigation. In the result, application is rejected.

7. Criminal Application Nos. 3668/2022 and 3343/2022 also stand disposed of accordingly.

8. At this stage, learned advocate for applicant prays for extension of interim protection granted to the applicant. Interim protection granted to the applicant is extended by two weeks.

(NITIN B. SURYAWANSHI, J.)