

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1349 OF 2022

Raosaheb Kundlikrao Bhavar And Another ...Applicants

Versus

The State Of Maharashtra ...Respondent

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

Mr. V.S. Badakh, APP for the respondent.

Ms. M.R. Jamdhade, Advocate for informant/assist to PP.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 12th JANUARY, 2023

ORDER :

1. The applicants apprehend arrest in Crime No. 286/2022, registered with Police Station Tembhurni, Taluka-Badnapur, District- Jalna, for offences under sections 506 read with 34 of Indian Penal Code and under sections 39 and 45 of Maharashtra Money Lending Act.

2. On 08.09.2022 Krushna Vitthal Khandebharad lodged FIR alleging that his father obtained loan from applicant No. 1 who is conducting illegal money lending business. Towards security of loan, sale deed of their land Gut No. 417/1, admeasuring 1 Hectare was executed. He complained to

Competent Authority/District Deputy Registrar about illegal money lending transaction of applicant No. 1, who after hearing held in favour of informant and directed applicant No. 1 to return the land of father of informant. Hence, he alleged that the applicants have grabbed their land while doing illegal money lending business.

3. Heard the learned advocate for the applicants, learned Additional Public Prosecutor for respondent and learned advocate for informant. Perused the investigation papers.

4. It is the case of the applicants that applicants have purchased the land in question from informant by paying him substantial amount. Applicants have also filed Regular Civil Suit No. 147/2018 seeking injunction against informant and his family members from interfering in the peaceful possession of applicants. Though, the Trial Court rejected their application Exhibit-5, Appellate Court has allowed the application and has granted temporary injunction in favour of applicants, thereby restraining informant and his family members from interfering in the peaceful possession of applicants from the land in question. Applicants claim that they are doing seed business and they are

cultivating crops to prepare seeds in the land in question. In support of said contention they have placed on record seed license issued in their favour and license to carry on business of dealer in seeds which is issued in the name of applicant No. 1.

5. Perusal of investigation papers shows that the prosecution case is based on documents and all the documents are already seized by the investigating agency. Certified copy of sale deed in question is also collected by the investigating officer.

6. Learned Additional Public Prosecutor submits that custody of applicants is necessary for obtaining original sale deed. This contention cannot be accepted, as the investigating officer has already collected certified copy of the sale deed.

7. Considering the allegations in the FIR and the material collected during the course of investigation and the orders passed in favour of applicants by the competent Civil Court and as nothing is to be recovered from the applicants, pre-trial custodial detention of the applicant is not necessary in the facts of the present case.

8. The applicants were granted interim protection and they have attended the police station and have co-operated in the investigation. In the light of these facts, application is allowed by confirming interim protection dated 07.10.2022.

9. Till filing of charge sheet, applicants to attend the concerned police station as and when called by the investigating officer and co-operate in the investigation. The applicants shall not tamper the prosecution evidence.

[NITIN B. SURYAWANSHI, J.]