

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1514 OF 2021

Datta S/o Shankarrao Pawar
and others

.... Applicants

Versus

The State of Maharashtra
and another

.... Respondents

WITH

ANTICIPATORY BAIL APPLICATION NO. 1541 OF 2021

Kazi Nooruddin S/o Kazi Mohammad
Abdul Rahim

.... Applicant

Versus

The State of Maharashtra
and another

.... Respondents

.....

Mr. S.S. Kazi, Advocate for the Applicants
Mr. A.V. Deshmukh, APP for Respondents – State
Mr. N.E. Deshmukh, Advocate for the Informant.

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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. 493 of 2021 registered with Partur Police Station, District Jalna for the offence punishable under sections 120-B, 420, 465, 466, 468, 471 read with 34 of the Indian Penal Code and under section 52-A of the Wakf Act, 1954.

2. FIR is lodged by Mohammad Lateefudding Mohammad Gausmohiuddin, District Wakf Officer, Jalna alleging that at Partur, the Wakf Institution namely, "*Kabrastan Ki Masjid and Mazar of Hazrat Shah Alam Shah (Suleman Shah Ki Masjid)*" are in existence and for rendering services to the said institution old survey No.150 and new survey No.138 are service *inam* lands. In Government gazette published on 17.10.1974, the details of the property is given. It is further alleged that the said lands being service *inam* lands, cannot be transferred. Shaikh Aamer @ Shandaar Quareshi S/o Hanif Qureshi and other 15 to 20 persons, including the applicants have encroached over the Wakf property by illegal sale-deeds etc., and they have made construction. Such complaint also was received by the Wakf Board from Shaikh Khalique Shaikh Ahmed Qureshi and after enquiry, it is found that Shaikh Aamer @ Shandaar Qureshi S/o Hanif Qureshi resident of Qureshi Mohalla, Partur has inducted Shaikh Azhar and other persons by creating plotting and by way of lease-deeds and other documents. It is further alleged that the applicants have taken Wakf property on lease/rent *Kararnama* on 100 rupees bond paper, and after enquiry it revealed that the areas are

not mentioned in the lease-deed. Thus, the applicants have taken property on lease without permission of Wakf Board.

3. It is alleged that lease deeds were executed in favour of applicants in anticipatory bail application No.1514 of 2021, in the month of February 2021 for 11 months, by *Mutawalli* of Wakf Board. The applicants have set up their business on the said property, which is in fact a Wakf Property.

4. 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.

5 Admittedly, the prosecution case is based on documents and revenue record, which are already seized by the Investigating Officer. The investigation appears to be on the verge of completion. Nothing is to be recovered from the applicants.

6. The applicants were granted interim protection in the year 2021, 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.

7. Learned Additional Public Prosecutor, however, submits that investigating officer has reserved his right to conduct further investigation under section 173(8) of the 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.

8. In the result, the application is allowed. In the event of arrest of the applicants in connection with Crime No. 493 of 2021 registered with Partur Police Station, District Jalna for the offence punishable under sections 120-B, 420, 465, 466, 468, 471 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.

13. 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