

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1560 OF 2021

Satish S/o. Biharilal Baldawa Applicant

Versus

The State of Maharashtra Respondent

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Mr. Swapnil S. Rathi, Advocate for the Applicant
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 applicant apprehends his arrest in connection with Crime No. 399 of 2021 registered with Patihan Police Station, District Aurangabad for the offence punishable under sections 420, 465, 466, 468, 471, 120-B read with 34 of the Indian Penal Code and under section 52-A of the Wakf Act.

2. FIR is lodged by Sayed Faiz S/o. Syed Gous, District Wakf Officer, Aurangabad alleging that he has received order from the Chief Executive Officer of Wakf Board dated 24.11.2021 in respect of the property i.e. survey No. 173 situated at Patihan is a service *inam* land, and it belongs to *Dargah Hazrat Maulana Sahib*, Paithan and directing him to register offence with police against the persons who

unauthorizedly and illegally encroached over the property. It is further alleged that proclamation was published in newspaper in relation to the said land that it is a conditional service *Inam* land and some persons were noticed to be involved in the activities of sale and purchase of the said land. The proceeding under Section 54 of the said Act are pending before competent Court of law. The land alienated in the names of persons against whom complaints were received from 25.11.2019 to 12.11.2021.

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.

5. It is the case of applicant that on 16/10/1980 one Syed Hussain had leased out land survey No.173 from Paithan, District Aurangabad for 99 years to one Jugalkishor Baldawa. Accordingly, mutation entry was taken. The said land is fallen to the share of the applicant in family partition, and he is in possession of the said land to the extent of 2 Acres. According to him, the dispute is of civil nature and the order has been passed by the Additional Collector on 16/11/1996 under the provisions of Hyderabad *Atiyat* Enquiries Act, holding that the

applicant and others are in lawful possession of the said land under lease deed.

6. *Prima facie*, the allegations appear to be of civil nature. The prosecution case is based on documents, which are seized by the Investigating Officer.

7. The applicant was granted interim protection in the year 2021, and he has co-operated in the investigation. Nothing is to be recovered from the applicant. In the facts of the present case, pre-trial custodial detention of the applicant is not necessary.

8. 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.

9. In the result, the application is allowed. In the event of arrest of the applicant in connection with Crime No.399 of 2021 registered with Patihan PoliceStation, District Aurangabad for the offence punishable under sections 420, 465, 466, 468,

471, 120-B read with 34 of the Indian Penal Code and under section 52-A of the Wakf Act, the applicant shall be released on executing Personal Bond of Rs.15,000/- with one surety in the like amount.

10. 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