

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1712 OF 2022

Habib Ismail Rajkotwala

...Applicant

Versus

The State Of Maharashtra And Another

...Respondents

Mr. S.E. Shekade h/f. Mr. A.V. Lavte, Advocate for the applicant.
Mr. A.V. Deshmukh, APP for respondents.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 16th JANUARY, 2023

ORDER :

1. The applicant apprehends arrest in Crime No. 685/2022, registered with Kotwali Police Station, Ahmednagar, for offences punishable under sections 420, 465, 468 and 471 of the Indian Penal Code.

2. FIR is lodged by Afreen Anwar Rajkotwala alleging that the applicant is looking after informant and her sisters, as her parents are no more. Her father died in the year 2008 and mother died in the year 2011. During his life time, her father received ancestral properties by partition deed, in the year 2008. The properties are Survey Nos. 247/1, 248/2, 248/3, 247/4A,

247/4B/2, situated at Kedgaon, Ahmednaar. She has three sisters namely Amirabano, Aksa and Afsha. After death of parents applicant was looking after them. On 03.10.2011, applicant made application to village Talathi, forging the signature of informant and mutated names of only two sisters i.e. informant and Afsha in 7/12 extract of said properties. Names of other two sisters were deliberately not mutated. On 17.06.2011, applicant executed forged power of attorney from informant and her sister Afsha. Though, age of informant's sister Afsha was 17 years, it is incorrectly mentioned as 18 years. After lapse of 10 years applicant sold out properties on 11.02.2021 to one Saad Ilyas Memon for consideration of Rs. 60,00,000/-. In the said sale deed informant is deliberately shown as married, though she is unmarried. Thus, the applicant is cheated informant and her sisters.

3. Heard the learned advocate for the applicant and learned Additional Public Prosecutor for the respondents. Perused the investigation papers.

4. It appears that the applicant was looking after informant and her sisters. The copy of alleged forged power of

attorney and copy of sale deed allegedly executed by the applicant, thereby selling properties for Rs. 60,00,000/- is seized by the police authorities. Learned advocate for the applicant submits that said sale deed is cancelled. Statement of said purchaser is recorded during the course of investigation, wherein he has stated that he has taken back cheques of Rs. 60,00,000/- given to the applicant and cancelled the sale transaction. Learned advocate for the applicant has placed on record copy of plaint in Special Civil Suit No. 112/2021 filed by said purchaser against the applicant, informant and her sisters Afsha. Said suit was subsequently compromised and decree was drawn in terms of compromise.

5. Considering the investigation papers and allegations made against the applicant and as documents which were required from the applicant are already seized by the investigating officer, nothing remains to be recovered from the applicant. Pre-trial custodial detention of the applicant is not warranted in the facts of the present case. The investigation is almost complete. In the light of above, application is allowed by confirming interim order dated 16.12.2022.

6. Til filing of charge sheet, applicant shall attend the concerned police station as and when called by the investigating officer. The applicant shall not tamper the prosecution evidence.

[NITIN B. SURYAWANSHI, J.]