



Sayali Upasani

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 414 OF 2023

Ismail Sikander Momin

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Shreeram Kulkarni i/b Ms. Pranjal M. Khatavkar, for
Applicant.

Mr. M. G. Patil, APP, for State.

Mr. A. V. Kesarkar, ASI, Wanwadi Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 25th SEPTEMBER, 2023

PC:-

- 1) Heard the learned counsel for the applicant and the learned APP for the State.
- 2) This is an application for pre-arrest bail in connection with C.R. No. 484 of 2022, registered with Wanwadi Police Station, Pune for the offences punishable under Sections 420, 465, 467, 468, 471 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3) When the application was listed before this Court on 14th February, 2023, this Court had granted interim protection.

4) At the outset, it would be suffice to note that the applicant has no role in the alleged transaction of fabrication of the Will in respect of which the first informant had lodged the instant FIR. In fact, on 16th November, 2021, probate has been granted in respect of the Will, which the first informant alleged to be forged. Thus, by an order dated 19th July, 2023, in ABA No. 3640 of 2022, the applicant therein - beneficiary under the said Will, has been granted interim protection as the judgment of a Testamentary Court operates in rem.

5) The applicant appears to have been implicated as it transpired during the course of investigation that the co-accused Ranjit Burte had witnessed another Will purportedly executed by a lady Kamal Kadam. The applicant was shown the legatee in respect of the property bequeathed under the said Will.

6) The learned Counsel for the applicant submitted that the testatrix appeared before the Court of Session and filed an affidavit confirming that she had executed said Will out of her own volition and due to the love and affection she had towards the applicant.

- 7) Mr. Patil, the learned APP invites the attention of the Court to the statement of the said lady recorded on 19th January, 2023.
- 8) I have perused the said statement. The testatrix states that she was made to sign the instrument making her believe that she would be spared of the harassment caused by one Nayar.
- 9) In the aforesaid view of the matter, the question of legality and validity of the will allegedly executed by Kamal Kadam would arise when the applicant would propound the same as the last Will. In the face of the affidavit before the Court of Session, it would be a matter for adjudication, if such a question ever arises.
- 10) In the aforesaid view of the matter, the custodial interrogation of the applicant does not seem warranted to facilitate further investigation in the instant FIR.
- 11) I am, therefore, inclined to allow the application.
- 12) Thus, the following order:-

ORDER

I) In the event of arrest of the applicant in connection with C.R. No. 484 of 2022, registered with Wanwadi Police Station, Pune for the offences punishable under Sections 420, 465, 467, 468, 471 read with Section 34 of Indian Penal Code, 1860, the applicant be released on bail on

executing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

II) The applicant shall co-operate with the investigation and attend Wanwadi Police Station, Pune on 11th October, 2023, 12th October, 2023 and 13th October, 2023 in between 10.00 am to 1.00 pm.

III) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the persons acquainted with the facts of the case.

iv) The applicant shall regularly attend the proceedings before the jurisdictional Court.

V) The application stands disposed.

[N. J. JAMADAR, J.]