

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

**ANTICIPATORY BAIL APPLICATION NO.1002 OF 2023
WITH
INTERIM APPLICATION NO.1507 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO.1002 OF 2023**

Rahul Kumar Suganavar ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. V.M. Thorat, Senior Advocate with Mr. Padmanabh D. Pise and Ms Sejal A. Hariyan i/b. M/s. P. Padmanabh and Associates for the Applicant.

Mr. Surel Shah with Mr. Anand Patil for the Intervenor.

Mr. R.M. Pethe, APP for the Respondent -State.

Mr. Rahul Vijay Mane for the Intervenor.

Mr. A.A. Kazi, B.N.1413, Sangola Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 3rd JULY, 2023.

P. C. :-

1. This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R. No. 127 of 2023 registered with Sangola Police Station, District-Solapur for the offences punishable under Sections 379, 420, 504 and 506 r/w 34 of the IPC.

2. Heard Mr. Thorat, learned counsel for the Applicant, Mr. Surel S. Shah, learned counsel for the Intervenor and Mr. R.M. Pethe,

learned APP for the Respondent-State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR dated 12/02/2023 lodged by Dr. Sachinkumar Suganawar. The facts narrated in the FIR prima facie reveal that there is dispute between the parties in respect of the property under Gat No.180 and 181 of village - Kalubavdi, Taluka-Sangola and that the suit for partition filed in the year 2018, is pending before the Civil Court.

4. The father of the First Informant expired in the year 2019. In the year 2020 the Applicant got his name mutated in survey records on the pretext that he is the legal representative of Sukumar Parisa Suganawar. The records reveal that the Applicant submitted an application dated 13/01/2022 to the Revenue Authority requesting them to revert the entries. Accordingly, the entries have been reverted and the name of the Applicant has been deleted from the survey records. About a year later the First Informant lodged the FIR alleging that the Applicant had got his name mutated in the survey records with an intention of cheating. As noted above, the entries were reverted

much prior to the lodging of the FIR. Hence, prima facie the offence of 'cheating' is not made out.

5. It is alleged that the Applicant has committed theft of five sheds in the said property. In the suit for partition it is averred that the First Informant is a co-owner of the sheds. Learned counsel for the Applicant states that the Applicant and other co-owners have 1/5th share to the said shed and the First Informant has right to the remaining 1/6th share. He states that the Applicant and the co-owners had transferred their 1/5th share in favour of one Pathan. In such circumstances, prima facie offence under Section 379 of the IPC is not made out.

6. Considering the nature of accusations and the material in support thereof, this Court by order dated 06/04/2023 granted interim relief to the Applicant. Learned APP states that pursuant to the said order, the Applicant has reported to the Investigating Officer and he has been interrogated. Hence, no case is made out for custodial interrogation.

7. Under the circumstances, the interim bail granted to the Applicant vide order dated 06/04/2023 stands confirmed.

8. The Applicant shall report to the Investigating Officer as and when required by the Investigating Officer for the purpose of investigation.

9. The Applicant shall not tamper with the prosecution evidence and or influence the witnesses in any manner.

10. The Applicant shall keep the Investigating Officer informed of his current address and mobile contact numbers, and /or change of residence or mobile details, if any, from time to time.

11. The application stands disposed of.

12. The Interim application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)