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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1547 OF 2022

Ravi Yallapa Dhotre ...Applicant
vs.
State of Maharashtra ...Respondent

WITH
INTERIM APPLICATION NO.2123 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.1547 OF 2022

Pravina Subhash Dhotre ...Applicant
vs.
Ravi Yallapa Dhotre & Ors. ...Respondents

Mr. Karan Bhosale with Mr. Rahul Tripathi and Mr. Ramzanali Malik for the Applicant in ABA No.1547/2022 and for Respondent No.1 in IA No.2123/2022.
Mrs. M. R. Tidke APP for the Respondent-State.
Mr. Onam Hingorani i/b Mr. Gunjan D. Thakkar for Application in IA No.2123/2022.

CORAM : S. M. MODAK, J.
DATED : 15TH MARCH 2023

P. C. :

1. Heard learned Advocate for the Applicant, learned Advocate for the first informant and learned APP for the Respondent-State.

2. The dispute has arisen after death of one Subhash Yallapa Dhotre. He expired on 27th April 2021. He was running petrol pump in the name and style as Omkar Petrol Pump. He was having dealership agreement with HPCL. The petrol pump was being run on the land which is jointly owned by deceased Subhash Yallapa Dhotre, his mother Jayshree Yallapa Dhotre being wife of Yallapa Dhotre and present Applicant. It is as per

registered gift deed executed by Yallapa on 13th August 2004.

3. The first informant is wife of the said Subhash Dhotre. Her grievance is that after death of her husband-Subhash Dhotre, present Applicant, his wife and her mother-in-law tried to take over business and oust her from the properties. There are certain instances quoted in the FIR in order show an attempt made specially by the Applicant to take over the property. It consists of using four cheques having signatures of her husband. It includes an attempt made to obtain Shop Act license for that petrol pump business by the Applicant-Ravi Dhotre. It includes misappropriating three cars belonging to the deceased.

4. On the basis of her complaint, the police of the Waliv police station registered an offence under sections 406, 420, 465, 467, 471, 504 of IPC. The present Applicant and her mother-Nagamma and Jayasri approached the Court of Additional Sessions Judge at Vasai. Both ladies were successful in getting anticipatory bail. The Applicant was not granted anticipatory bail. My attention is invited to that order and more specifically paras 9 and 10.

5. Learned Advocate for the first informant has filed compilation of documents. It consists of photographs showing the Applicant sitting in one car. It consists of various challans issued for violation of traffic rules. The messages are received on mobile of the deceased. Furthermore, it is contended that there are various non cognizable complaints recorded against the Applicant, his mother and others. They are from page 19 to page 33. According to learned Advocate for the first informant the custodial interrogation of the Applicant is required. Even he submitted that his client has filed an Application for cancellation of anticipatory bail

granted to mother-in-law Nagamma.

6. Learned APP submitted that the Investigating Officer has collected various documents thereby showing that present Applicant has made various attempts to protrude himself as proprietor of that business. These instances are as follows :

(i) Applying in CSB bank thereby showing himself as proprietor of Omkar Petroleum.

(ii) Filing an Application before the Shop and Establishment Officer praying for issuing license in his name as proprietor of Omkar Petroleum.

(iii) Filing an Application before South Indian Bank.

7. She submitted that in fact four notices are issued to the Applicant thereby asking him to handover possession of those cars. Those cars were not found.

8. It is submitted on behalf of the Applicant that no doubt he has applied for issuing shop license in his name (its copy is annexed to the Application), however, it is contended that the first informant herself in the FIR has said that the Applicant is the Manager of business and it is said that they are members of a joint family. It is said that in fact the Applicant has made various payments in respect of certain dues and in fact payment is made to the first informant also. There details are on page 21 and summary is on page 22. It is submitted that after death of Subhash Dhotre, the Applicant has continued business and petroleum products were supplied by HPCL also. It is contended that now the HPCL has asked the first informant to carry on business and thereafter the Applicant is not looking after the said business. It is true that as per

letter dated 1st November 2021, HPCL has asked the first informant to operate the dealership. As per learned APP the duration is extended from time to time. It is also true that the first letter dated 1st November 2021, was issued by HPCL on joint request of the first informant and her mother-in-law Nagamma.

9. It is also submitted on behalf of the Applicant that out of four cars, one is in possession of the first informant and three cars are in possession of Nagamma, being mother of deceased and in fact the Applicant has not hidden this fact and the Applicant has also informed to police by writing a letter.

10. It is true that even though there is allegation that the cheques are used by the Applicant after death of Subhash, it is not case of the Investigating Agency that the Applicant has appropriated any payment to himself. When asked, learned APP submitted that these cheques were issued in the name of HDFC bank. Now the question is whether these cheques bear signature of the deceased Subhash Dhotre or present Applicant has signed it.

11. Learned Advocate for the Applicant is right in submitting that ultimately it is for the payee of said cheques to honour it or not. It is also true that the statement made by the Applicant about payment of outgoings and payment made to the first informant is not denied on behalf of the first informant. It is also true that after sending reply thereby explaining about possession of those cars, the investigating agency has not taken any effective steps for seizure of those cars. Whether the cars can be seized or not, it is for the investigating agency to take a decision. This is particularly in view of the fact that after death of

Subhash, his wife as well as his mother becomes the heirs (being Class I heirs). It is also true that the Applicant has applied for heirship certificate thereby not describing mother as one of the heir and it is pending after mother-in-law Nagamma has taken objection.

12. It is true that an attempt to settle the matter through mediation is not successful. Considering above facts, we have to see whether custodial interrogation of the Applicant is required or not.

13. After considering the submissions of the Applicant, I feel that he has clarified his stand, particularly when the prosecution as well as the first informant are not coming with a case that the Applicant has misappropriated the amount by using cheques. I do not think that custodial interrogation is required. The question remains only about verification of documents and that can be done even by giving attendance of the Applicant to the police station. The Applicant has already attended and it can be continued. So far as certain non cognizable complaints are concerned, they were filed prior to lodging of FIR. If the Applicant is named as one of the accused in non cognizable complaints, then the first informant is at liberty to take steps. If the Applicant is misusing liberty, he can be put to terms. If there is dispute on account of property, the law can take its own course by resorting to civil remedies.

14. From the above discussion, I do not think that custodial interrogation of the Applicant is required. This Court has already granted interim protection as per order dated 15th June 2022. Hence, the following order is passed :

<u>O R D E R</u>

(a) In the event of arrest of the Applicant-Ravi Yallapa Dhotre, he be released on bail on furnishing personal bond and surety bond of Rs.50,000/- in C.R. No.I-336 of 2022 registered at the Waliv police station at Vasai East for the offences punishable under sections 406, 420, 465, 467, 471, 504 read with 34 of IPC.

(b) The Applicant shall not threaten the prosecution witnesses or allure them in any manner.

(c) The Applicant shall give attendance to the Waliv police station, Vasai East on every Thursday from 10 am to 12 noon till the filing of the charge-sheet.

(d) Needless to say, that violating any of the above conditions will make the Applicant liable for cancellation of anticipatory bail after notice.

15. Application is disposed of accordingly. Interim Application is also disposed of.

16. These are my prima facie observations and the trial Court may not be influenced by that.

17. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]