

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.327 OF 2023
(Dhiraj Balkishan Rathi and anr. Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.D. Bhate, Advocate for the applicants.
Shri A.M. Kadukar, APP for the non-applicant/State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JUNE 08, 2023.

Heard.

2. By this application the applicants are seeking anticipatory bail in the event of their arrest in connection with Crime No.799/2022 registered at police station Frezarpura, Amravati City for the offence punishable under Sections 419, 420, 465, 466, 468, 471 read with Section 34 of the Indian Penal Code.

3. The applicants are apprehending their arrest at the hands of the police as one Dr. Paresh Narayandas Soni has lodged report against them on an allegation that his land was transferred in the name of applicant No.1 using forged Adhar Card and Pan Card. For transferring the said land in the name of applicant No.1 the sale-deed was executed and his documents were forged by the accused by name Prakash Narayandas Soni who represented himself as Dr. Paresh Soni and thereby cheated the informant for an amount of Rs.28,55,000/-. On the basis of the said witnesses police have registered the offence.

4. It is the contention of the applicants that applicant No.1 is the purchaser who has purchased the land for an amount of Rs.28,55,000/- by paying the consideration amount and applicant No.2 is only the witness on the said sale-deed. Both the applicants are not concerned with the alleged offence. They were implicated falsely in the alleged offence merely because applicant No.1 purchased the land for an amount of Rs.28,55,000/- before the Sub-Registrar and applicant No.2 signed as one of the two witnesses. Their custodial interrogation is not at all required, and hence they be protected by granting anticipatory bail.

5. Said application is strongly opposed by the State on the ground that the land of the informant was sold to applicant No.1 with the help of forged documents, therefore, custodial interrogation of the present applicants is required and hence, the application deserves to be rejected.

6. Heard learned Counsel for the applicants. He reiterated the contention and submitted that there is no occasion with the present applicant No.1 to know who is Dr. Paresh Soni. There is no occasion for the applicants to ascertain the documents are forged one. In the entire role attributed regarding forging is to one Prakash Narayandas Soni. Only role of the present applicant No.1 is that he has purchased the said land. It is pertinent to note that by paying the consideration amount the applicant No.1 purchased the said land, therefore, *prima facie* material on

record is not sufficient to connect applicant No.1 with the alleged offence. Admittedly, no role is attributed to the applicant No.2 as he was only the witness of the said sale-deed.

7. *Per contra*, learned Additional Public Prosecutor for the State submitted that the custodial interrogation of the present applicants is required to ascertain regarding the forgery of the documents.

8. Heard both the sides and perused the First Information Report and the investigation papers. Admittedly, only allegation against the present applicant No.1 is that he has purchased the land and applicant No.2 is the witness of the sale-deed. The submission made by the learned Counsel for the applicants has substance as there is no occasion for applicant No.1 to ascertain whether the person who is executing the sale-deed is Prakash Narayandas Soni or Dr. Paresh Soni. He gone through the relevant papers and purchased the land. Even if the allegation is taken as it is, the dispute is of civil nature and custodial interrogation is not required.

9. Considering the role of the present applicants, application deserves to be allowed by imposing certain conditions. Hence, I proceed to pass the following order :

- (i) The application is allowed.
- (ii) The applicant No. 1 – Dhiraj Balkishan Rathi and applicant No.2 – Shravan Ghanshyam Rathi in the event of arrest in

Crime No.799/2022 registered at police station Frezarpura, Amravati City for the offence punishable under Sections 419, 420, 465, 466, 468, 471 read with Section 34 of the Indian Penal Code, be released on anticipatory bail on executing PR. Bond in the sum of 25,000/- (Rs. Twenty five thousand) each with one or more surety each, in the like amount.

(iii) The applicants shall attend the concerned Police Station as and when required for investigation purpose and shall cooperate with the investigating agency.

(iv) The applicants shall furnish their cell phone numbers and detail address along with address proof.

(v) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.

(URMILA JOSHI-PHALKE, J.)