



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.705 OF 2023

Indira Namdeo Padole and another

Vs.

State of Maharashtra, Through Police Station Officer, Hingna Police Station, District
Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Abhay Shambre, Advocate for applicants.

Mr. N. R. Rode, APP for respondent No.1/State.

Mr. Anirudh Ananthakrishnan, Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 11/12/2023

1. By this application, the applicants are seeking pre-arrest bail in connection with Crime No.615/2023, registered with Police Station, Hingna, District Nagpur for the offences punishable under Sections 420 and 406 read with Section 34 of the Indian Penal Code.

2. Learned Counsel Mr. Sambre for the applicants submitted that applicants are apprehending arrest at the hands of police, as crime is registered on the basis of report lodged by Sumit Khedkar on an allegation that he acquainted with the applicant No.2 Namdeo Bhaiyyaji Padole from last 10 – 15 years. The applicant No.2 has agricultural land adjacent to his land at Hingna. He has converted his land into non-agricultural purpose and entered into an agreement with him to sale the

plots, accordingly, agreement was executed and consideration amount was received by both the applicants. As per the agreement to sell, the applicants were under obligation to execute the sale deed within six months, however, for one or the other reasons both the applicants have not executed the sale deed and shown their reluctance to execute the sale deed. They have also not returned the money which was paid against the consideration amount. On the basis of said report, police have registered the crime.

3. Learned Counsel for the applicants submitted that considering the allegations, at the most the dispute appears to be of civil nature. There was no intention since inception to commit such type of offence. As far as the custodial interrogation is concerned, it is not required and hence, applicants be permitted by granting anticipatory bail.

4. Learned APP for the State strongly opposed the application on the ground that since inception there was intention and therefore, applicants entered into an agreement, obtained the earnest amount and not executed the sale deed. Similar type of offence is registered against the present applicants. Learned Counsel for the informant has also endorsed the same contentions and raised the objection to release the applicants on bail.

5. Having heard the learned Counsel for the applicants and learned APP for the State. Perused the recitals of the FIR. From the recitals of the FIR, it reveals that there is a breach of agreement as the applicants entered into an agreement with the informant to execute the sale deed which is not executed. Considering the nature of the allegations, the dispute appears to be of civil nature. Considering the same, the custodial interrogation of the present applicants is not required, in view of that, they be protected by granting anticipatory bail. In view of that, application is allowed. Accordingly, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) The applicant **No.(1) Indira Namdeo Padole and (2) Namdeo Bhaiyyaji Padole** be released on anticipatory bail in the event of their arrest in connection with Crime No.615/2023, registered with Police Station, Hingna, District Nagpur for the offences punishable under Sections 420 and 406 read with Section 34 of the Indian Penal Code, on executing PR bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

(iii) The applicants shall attend Police Station as and when required for the investigation purpose.

(iv) The applicants shall furnish their cell phone numbers and addresses with address proof before the Investigating Officer.

(v) The applicants shall not induce, threat or promise any witness who are acquainted with the facts of the present crime.

(URMILA JOSHI-PHALKE, J.)