



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.2 OF 2024

1. Eknath S/o Vitthal Patole
2. Popat S/o Rohidas Patole ... Applicants

VERSUS

The State Of Maharashtra
and another ... Respondents

.....
Mr. Rajendra P. Phatke, Advocate for Applicants
Mr. S.V. Hange, APP for Respondent Nos.1 and 2 – State
Mr. Rajendra H. Wagh, Advocate for Informant

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 21st FEBRUARY, 2024

ORDER :

1. Leave to correct.
2. Applicants apprehend arrest in connection with Crime No.0159 of 2022 registered with Sonai Police Station, District Ahmednagar for the offence punishable under sections 420, 467, 468, 471, 166, 167, 120-B read with section 34 of the Indian Penal Code.
3. Sudhir Machindra Patole filed criminal case No.246 of 2018 against eight accused persons namely, Appasaheb Bhimraj Dhere, the then Circle Officer, Shyam Shankar Jamdade, the then Talathi, Arun Jagannath Patole, Eknath

Vithal Patole, Anusaya Bhimraj Patole, Raju Bhimraj Patole, Prabhudar Bhimraj Patole and Popat Rohidas Patole, seeking order under section 156 (3) of the Code of Criminal Procedure. Learned Magistrate by order dated 04.04.2022 directed police to register FIR and conduct investigation.

It is alleged in the FIR that applicants and others by joining hands with the then Circle Officer and Talathi created false *panchanama* and mutated name of applicant no.1 in the revenue record in the year 2012. The said mutation entry is taken on the basis of forged and fabricated documents.

2. Heard learned advocate for applicants, learned APP for respondents – State and learned advocate for informant. Perused investigation papers.

3. The allegations of informant appear to be that applicant No.1 has made application to take entry of house situated in the agricultural land. An inquiry allegedly conducted by Talathi and Circle Officer and thereafter a report was submitted to Tahasildar and mutation entry was effected. It is the prosecution case that mutation entry was effected without any order of Tahasildar. Circle Officer and Talathi obtained signatures of *panchas* saying that their signatures are required for providing them hand-pumps.

4. Admittedly, alleged incident has taken place in the year 2012 and complaint is made for the first time in the year 2018. There is inordinate delay in lodging the complaint. An inquiry was conducted by revenue department and the alleged mutation entry is already cancelled. Offence pertains to documents, which are already seized by the Investigating Officer. Investigation appears to be on the verge of completion, and therefore, pre-trial custodial detention of applicants is not necessary as nothing is to be recovered from applicants.

5. Application is therefore allowed by confirming interim protection granted to applicants by order dated 03.01.2024.

6. Till filing of the charge sheet, applicants shall attend the concerned police station as and when called by the Investigating Officer. Applicants shall not tamper prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE