



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

927 ANTICIPATORY BAIL APPLICATION NO. 1085 OF 2024

1. Surendra Nathamal Lunkad
2. Rupesh Surendra Lunkad
3. Sejal Surendra Lunkad

VERSUS

The State Of Maharashtra And Another

AND

928 ANTICIPATORY BAIL APPLICATION NO. 1087 OF 2024

1. Surendra Nathamal Lunkad
2. Rupesh Surendra Lunkad

VERSUS

The State Of Maharashtra And Another

- Mr. Joydeep Chatterji, Advocate for the Applicants
- Mr. P. K. Lakhotiya, APP for the Respondents/State

CORAM : R.M. JOSHI, J

DATE : OCTOBER 15, 2024

COMMON ORDER :

1. Applicants apprehend arrest in connection with with C.R. No. 84 of 2024 & 83 of 2024 registered with Jilhapeth Police Station, Dist. Jalgaon for the offences punishable under Sections 420, 465, 468, 471, 201 read with Section 34 of the Indian Penal Code.

2. First informant is the Special Recovery Officer of the Jalgaon District Central Credit Co-

operative Society. It is the case of the Informant that Mahavir Urban Credit Society Ltd. Jalgaon had obtained loan of Rs. 8 Crores in the year 2002. Present Applicant No. 1 is one of the Directors of the said Society. Since there was no repayment of the loan, the proceedings were initiated under Section 101 of the Co-operative Societies Act. A certificate came to be issued for the recovery of Rs. 17,58,03,383/-. There is allegation that on 05.02.2021 notice was issued for the recovery of the said amount. In respect of plot no. 586 order of attachment came to be passed on 25.10.2023 by the Assistant Registrar, Co-operative Societies. The said order of attachment was informed to the concerned authorities including the Sub-Registrar of Assurances. It is alleged that in spite of knowledge of the said attachment in respect of plot no. 586, Applicant No. 1 has executed gift deed in favour of Applicant Nos. 2 and 3 and thereby has committed breach of trust.

3. Learned Counsel for the Applicants submit that admittedly property in question was never mortgaged in favour of the Bank. He has drawn attention of the Court to the specific statement made in the applications with

regard to no notice being served upon him about attachment of plot no. 586. It is thus his submission that in absence of any embargo for the Applicant No. 1 to execute any gift deed in the capacity of owner of property and register the same, no offence is said to have been committed by him.

4. Learned APP opposed the applications by relying upon the panchnama dated 30.10.2023 conducted by the Special Recovery Officer. This, according to him, is sufficient notice to the Applicant No. 1 with regard to attachment of the property in question.

5. Undeniably, the property in question was never mortgaged with the Bank. A statement is made by the Applicant No. 1, who is owner of the property, that he has not received any notice in respect of the order of attachment of the said property. Even the record indicates that the notice issued to Applicant No. 1 was without referring to the property in question. Though there is a panchnama drawn on 30.10.2023, however, there is nothing on record to indicate that Applicant No. 1 who is the owner was present and that the said order of attachment was within his knowledge.

In absence of the property in question being mortgaged with the Bank or any evidence to indicate the knowledge of the Applicant No. 1 about order of attachment, it cannot be said that any offence is committed by the Applicant No.1 by transferring the property owned by him in favour of his son.

6. This is not the case wherein anything needs to be recovered from the Applicants. All documents are part of the record before Sub-Registrar, Assurances. For the purpose of recovery of any documents, Applicants be treated as in the custody by the investigating officer. Applications are allowed. Hence, the order:

O R D E R

- (i) In the event of arrest of the Applicants in connection with C.R. Nos. 84 of 2024 & 83 of 2024 registered with Jilhapeth Police Station, Dist. Jalgaon for the offences punishable under Sections 420, 465, 468, 471, 201 read with Section 34 of the Indian Penal Code, they shall be released on bail on furnishing PR bond of Rs. 15,000 (Rupees Fifteen Thousand Only) each with one surety in the like amount.
- (ii) They shall attend the concerned police station as and when required.

- (iii) They shall not contact the witnesses directly or indirectly.
- (iv) They shall not interfere with the evidence in any manner whatsoever.
- (v) They are further directed to cooperate the investigating agency for further investigation.

(R.M. JOSHI, J.)