



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 1473 OF 2023

BAPURAO SHANKARRAO RATHOD

....Applicant

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....Respondent

...

Mr. R.S. Deshmukkha, Sr. Advocate i/b Mr. Ameya N. Sabnis,
Advocate for Applicant

Mr. A.R. Kale, APP for Respondents – State

Mr. N.K. Tungar, Advocate to Assist APP

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 12th JANUARY, 2024

PER COURT :

1. Leave to add Superintendent of Police, Latur, as a party respondent. Amendment to be carried out forthwith.
2. Applicant apprehends arrest in Crime No.249/2023, registered with Udgir City Police Station, Latur, for offence punishable under Sections 420, 465, 467, 468 and 471 of the Indian Penal Code.
3. FIR is lodged by nephew of applicant namely Balasaheb Narayan Rathod alleging that in the year 2005 his father and uncle had jointly purchased 60 Gunthas land in Gut No.220 from Kerba Tukaram Helambe by registered sale deed bearing D.B.

No.4180/2005. A building was constructed thereon and was given on rent to Shankar Secondary and Higher Secondary Ashram School, Udgir. After demise of informant's father on 08/01/2010, names of his mother Tanubai Narayan Rathod and brother Sanjay Narayan Rathod were mutated in revenue record vide M.E. No.1837. On 03/02/2010 Sanjay Rathod and Tanubai Rathod relinquished their respective shares in favour of informant and his name was mutated in 7/12 extract vide M.E. No.1846. Thereafter, informant and applicant entered into rent agreement with Headmaster of Shankar Secondary and Higher Secondary Ashram School, Udgir. Though his name is mentioned in 7/12 extract, applicant made entry of transfer of said property in the name of deceased father by enclosing NA permission of S.D.O. Udgir dated 17/10/2006, which was in the name of Jabruddin Badrodin Parkote and got entered name of informant's deceased father in respect of said property in municipal council record. Applicant prepared forged lease and license deed bearing No.6442/2018 and 6443/2018 on one and the same day, by showing 30 R land out of 60 R land in land Survey No.220 for the purpose of hostel and 30 R portion out of 60 R land of Survey No.220 MCH No.2-2-2049 for school building, by enclosing forged and fabricated Namuna No.8 containing name of applicant. He further alleged that though there was no partition of said property, applicant prepared forged and

fake document of Namuna No.8 showing his exclusive ownership over the entire 60 R land.

4. Heard learned Senior Advocate for applicant, learned advocate for informant and learned Assistant Public Prosecutor for State. Perused the investigation papers.

5. Learned Assistant Public Prosecutor strenuously opposed the application by placing reliance on papers of investigation.

6. Learned advocate for informant vehemently opposed application contending that informant is reinstated by the orders of Education Officer and the suit is dismissed. He submits that applicant is involved in serious offence of forgery and therefore, his custodial detention is necessary.

7. It is a matter of record that informant who is nephew of applicant was working in the school run by applicant as Shikshan Sevak. His service was terminated by order dated 27/12/2021 and thereafter present FIR is lodged. It also appears from the documents placed on record that informant had filed R.C.S. No.330/2023 against applicant and others for declaration of joint ownership and perpetual injunction in respect of same property. It is informed that said plaint is rejected under Order 7 Rule 11 of the Code of Civil Procedure.

8. There appears to be a civil dispute between applicant and informant. Applicant was granted interim protection by order dated 05/09/2023 and since then he is attending police station and has co-operated in the investigation. Investigation pertains to the documents which are already seized by investigating officer. In these facts, custodial detention of applicant is not necessary.

9. In the result, application is allowed by confirming interim protection order dated 05/09/2023, on same terms and conditions.

(NITIN B. SURYAWANSHI, J.)