



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1641 OF 2023

Mohummad Kalimoddin
S/o Mohummad Salimoddin
and another

... Applicants

VERSUS

The State of Maharashtra
and another

... Respondents

.....
Mr. Ajinkya Reddy, Advocate for the Applicants
Mr. D.B. Bhangе, APP for Respondents – State
Mr. D.G. Nagode, Advocate for Informant
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 28th FEBRUARY, 2024

ORDER :

1. Applicants apprehend arrest in connection with Crime No. 0194 of 2023 registered with Parli Rural Police Station, District-Beed for offences punishable under sections 420, 467, 468, 471 read with section 34 of the Indian Penal Code.

2. FIR is lodged by Pradip Purushottam Navhade stating that land survey no.245/2 admeasuring 1 Hectare 7 Are situated in Parli Vajjnath is his ancestral property. On 07.10.2022, he received a summons of Ambejogai Civil Court. When he perused the documents along with summons, he was

shocked to know that Subhash S/o Rajaram Navhade has executed an agreement to sale of the said land owned and possessed by informant in favour of Mohummad Kalimoddin S/o Mohummad Salimoddin and Mohummad Halimoddin S/o Mohummad Salimoddin on bond paper of Rs.10/-. Subhash Navhade has whatsoever no concern with the said land. His father, grandfather or great grandfather were not owner of the said land. On the basis of the said forged agreement to sale, Mohummad Kalimoddin S/o Mohummad Salimoddin, Mohummad Halimoddin S/o Mohummad Salimoddin, Guddu Kalimoddin Mulla, Ashfak Salimoddin Mulla, Sonu Ashfak Mulla, Rahenabi Kalimoddin Mulla, Kausabi Halimoddin Mulla, Siddhikha S/o Ashfak and Subhash S/o Rajaram Navhade manhandled informant and prevented him from going into the said land by abusing and threatened them. He was abused and threatened.

3. Heard learned advocate for applicant, learned APP for respondent – State assisted by learned advocate for informant. Perused the investigation papers.

4. Learned advocate for applicants submits that a civil dispute is being converted into criminal prosecution by informant. He submits that Special Civil Suit No.78/2022 is

filed by applicants for specific performance of contract of agreement dated 25.01.1993 against 17 defendants, including informant. He submits that in the said agreement to sale there is recital of handing over the possession of the said land. Further submission is, in spite of receipt of summons, informant has failed to appear in the suit to oppose it. It also submitted that after lodging of FIR, within seven days informant has sold out the said property to third person by sale deed dated 30.06.2023. It is submitted that the alleged forged agreement to sale of 1993 is already placed in the Civil Court along with the Suit filed by applicants. Since the offence pertains to documents, the same are already in the Court or seized by Investigating Officer, and therefore, custodial detention of applicants is not necessary.

5. Learned APP and learned advocate for informant has strenuously opposed the application stating that the said agreement to sale is forged document, which is executed by persons who has whatsoever no concern with the said land owned by informant. At the time of taking mutation entry no.104, and entering names of applicants to the said land, applicants have placed on record copy of partition deed, which is also a forged document and the same is also to be recovered from applicants.

6. Learned advocate for informant further submits that applicants by using muscle power are trying to dispossess him from the said land on the basis of forged agreement of sale.

7. On perusal of investigation papers, it *prima facie* appears that forged agreement of sale is executed by persons who have no concern with the said land. There is no substance in the contention of applicants that they were put in possession of the said land on the basis of the said agreement to sale. It is also transpired during the investigation while effecting mutation entry no. 104, applicants have presented copy of alleged partition deed of Navhade family members, which needs to be recovered from applicants. Applicants therefore cannot claim benefit of the said mutation entry by which their names were entered to the said property. The argument of applicant that though their names appeared in revenue record for almost 12 years, no objection was taken by informant, is liable to be rejected in these facts.

8. For effective investigation, it needs to be ascertained as to how applicants have prepared agreement of sale and who has helped them in preparing the forged documents. For recovery of original partition deed presented by applicants at

the time of effecting mutation entry, their custodial interrogation is necessary.

9. Applicants claim to be in possession of the said land on the basis of agreement to sale executed in the year 1993, by a person who is not owner and possession of the said land. If it was a genuine transaction, applicants would have ascertained as to who is the owner of the said land by taking out a search report. Since applicants are beneficiaries of the forged agreement to sale, they have not cared to do so.

10. Considering complicity of applicants in the present crime and the gravity of accusations, applicants do not deserve discretionary relief of anticipatory bail. Custodial interrogation of applicants is necessary for effective investigation.

11. Application is therefore rejected.

12. Learned advocate for applicants at this stage prays for continuation of interim protection granted by this Court on 03.10.2023, for a period of three weeks. Protection is continued for a period of two weeks from the date of uploading of this order.

[NITIN B. SURYAWANSHI]
JUDGE