

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1391 OF 2023

Dipak Appasaheb Dehmukh	...Applicant
vs.	
State of Maharashtra	...Respondent

**ALONGWITH
INTERIM APPLICATION NO. 2225 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO. 1391 OF 2023**

Satish Balwant Patil	...Applicant
vs.	
State of Maharashtra and Anr.	...Respondents

**ALONGWITH
INTERIM APPLICATION NO. 2430 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO. 1391 OF 2023**

Jaykumar B. Gore	...Applicant
vs.	
State of Maharashtra	...Respondent

ANTICIPATORY BAIL APPLICATION NO. 1366 OF 2023

Rohit Pratap Shinde	...Applicant
vs.	
State of Maharashtra	...Respondent

Mr. Rahul S. Kate i/b. Mr. Ganesh Patil :-	Advocate for Applicant.
Sr. Advocate Mr. Ashutosh Kumbhakoni a/w. Mr. Sanjeev Kadam i/b. Mr. Siddharth Karpe and Mr. Vishwajeet Mohite :-	Advocates for Intervener in IA/2225/2023 and IA/2430/2023.
Mr. A. S. Gawai :	APP for Respondent – State.
Mr. Shivaji Bhosale, API :-	EOW, Satara.

CORAM : S. M. MODAK, J.

DATE : 5th SEPTEMBER 2024P.C. :-

1. Heard learned Advocate Mr. Kate for two Applicants i.e. Applicant Dipak Appasaheb Dehmukh and Applicant Rohit Pratap Shinde. I have also heard learned Sr. Advocate Mr. Kumbhkoni for intervener - Mr. Jaykumar Gore who is Chairman of Shri Chatrapati Shivaji Education Society and the trust having office at Kolhapur so also heard learned Advocate Mr. Kadam for intervener – Satish Patil and also heard learned APP.

2. It is true that earlier this Court has granted interim protection to both these Applicants. They are asked to give attendance to Waduj

Police Station. They have attended. On the last date there was further direction to give attendance. Accordingly both the Applicants have attended the office of Economic Offence Wing, Satara. The Applicant Dipak Deshmukh is now arrested by the Directorate of Enforcement in a different offence.

3. There is an offence registered with Waduj Police Station on 30th March 2023. It was on complaint of one Vishal Arjun Salunkhe, who is a Senior Clerk in the office of Sub-Registrar at Khatav. The offences are under Sections 420, 465, 467, 468, 471 r/w. Section 34 of the Indian Penal Code and under Section 82 of the Indian Registration Act, 1908.

4. There was a complaint made by Dr. Satish Balwant Patil – President of Shri Chatrapati Shivaji Education Society, Dharwad [hereinafter referred to as ‘Dharwad Society’] to the Sub-Registrar, Khatav alleging that the so called document of gift-deed dated 10th November 2022 is bogus and resolution annexed to it is not passed by their Society. That is how inquiry was conducted and Senior Clerk of Sub-Registrar office filed complaint.

5. Initially FIR was lodged against seven accused persons. It

consists of following persons :-

- (i) The representatives of Chatrapatil Shivaji Education Society, Kolhapur [hereinafter referred to as 'Kolhapur Society'].
- (ii) It is Ganesh Nana Bhise. - Executor.
- (iii) Proposer and Seconder of Kolhapur Society.
- (iv) The persons who signed on behalf of Dharwad Society.
- (v) The Proposer and Seconder of the resolution alleged to be passed by Dharwad Society.

6. Later on few accused were added. Following are the submissions advanced by both the sides.

- (i) The alleged gift-deed dated 10th November 2022 was executed by Ganesh Nana Bhise on behalf of Kolhapur Society.
- (ii) One Umesh Madake signed as a beneficiary on that gift-deed on behalf of Dharwad Society.
- (iii) Present Applicants - Dipak Deshmukh and Rohit Shinde signed as a witnesses on behalf of Kolhapur Society.
- (iv) One Sandeep Deshmukh and one Maruti Shitole have introduced them.
- (vi) The copy of impugned resolution alleged to be passed by the Kolhapur Society. Learned Senior Advocate Mr. Kumbhakoni and Mr. Kadam invited my attention to it's contents There is reference about the execution of gift-deed. Finally the authority

was given to Ganesh Bhise to execute the gift-deed. Contention is even the resolution does not authorises execution of lease-deed:-

- (vi) It cannot be said that this gift-deed was in the best interest of the Society.
- (vii) The permission of Charity Commissioner was not obtained under the provisions of Section 36 of the Maharashtra Public Trusts Act, 1956 [MPT Act].
- (viii) The witnesses have not simply signed as witnesses but there is endorsement that this gift-deed is acceptable to them and contents are admitted by them.
- (ix) In the resolution alleged to be passed by Dharwad Society there are names of Dr. Shashikant Kumbhar - Proposer and Sachin Madhukar Patil as Secunder.
- (x) Even resolution is to execute gift-deed and the authority is given to Umesh Madake. He is granted anticipatory bail by Sessions Court.

7. According to Mr. Kadam two persons Shashikant Kumbhar and Sachin Patil are not members of Dharwad Society and there is list of members issued by the Dharwad Registrar to Sub-Registrar. I have perused it. It is true that names of Mr. Shashikant Kumbhar and Mr. Sachin Patil does not find place.

8. **Learned APP submitted** that yet the original gift-deed is not seized and even the so called resolutions are not seized. Both the Applicants have not cooperated initially and now also. He has shown to me a statement of one Sandeep Krishna Deshmukh who is Secunder of alleged resolution of Kolhapur Society. In fact he has stated about passing of the resolution. Now he has made as an accused. Learned APP has also shown to me a statement of Dr. Shashikant Kumbhar recorded under Section 161 of Cr.P.C. He has denied signing of the resolution on behalf of Dharwad Society. Whereas Mr. Kate submitted that the statement of Dr. Shashikant Kumbhar is also recorded under Section 164 of Cr.P.C. I have perused it. He has admitted about signing the resolution on 5th November 2022 as a Secunder. Even Mr. Shashikant Kumbhar is made as an accused in the matter of anticipatory bail. Even Mr. Kate produced the list of Managing Committee of Dharwad Society for the year 2021-22 and 2022-23. Dr. Kumbhar is shown as Vice-President. Mr. Kadam denied it's authenticity for the reason that the addresses are different.

Consideration

9. It is true that learned Additional Sessions Judge has granted anticipatory bail to few of the accused persons. Their orders are placed on record. **These persons are as follows :-**

- (a) One Maruti Shankar Shitole and one Rajkumar Tukaram Deshmukh were granted anticipatory bail. (Page No. 17).
- (b) One Sandeep Krushna Deshmukh, who is Secunder from Kolhapur Society, has granted bail.
- (c) Bail Applications of present Applicants Rohit Shinde and Dipak Deshmukh were rejected on 17th April 2023.
- (d) Even the Bail Application of Ganesh Bhise, who signed on behalf of Kolhapur Society was rejected.
- (e) Anticipatory Bail Applications of Pranjeewan Thobanabhai Patel, who is President of Dharwad Society, and one Sachin Madhukar Patil, who is Secunder of Dharwad Society, are allowed.
- (f) The Anticipatory Bail was granted to Dr. Shashikant Kumbhar of Dharwad Society and one Siddheshwar Devkar, who is Proposer of Kolhapur Society. There are few other accused also.
- (g) Anticipatory Bail Application of Umesh Madake, who signed on behalf of Dharwad Society, is granted.
- (h) Regular Bail Application of Himmat Deshmukh from Kolhapur Society is granted.

10. When I have seen these orders I do not find anywhere the

observations on the point of seizure of the gift-deed. Because generally, custody of the gift-deed remains with the person who is donee. In this case it is Kolhapur Society.

11. According to learned Senior Advocate Mr. Kumbhkoni the case of these two Applicants can be differentiated from those accused to whom either granted regular bail or anticipatory bail. It is true that the Additional Sessions Judge, Satara has passed the orders. Whether it is after consideration of the materials or not is the different issue, orders are there.

12. When I have gone through the materials for deciding whether confirmation of interim bail is made out, I find that the Applicant **Dipak Deshmukh** not only signed as a witness but additionally he signed in the capacity that this gift-deed is acceptable to him and to Rohit Shinde also. It is important to note that Dipak Deshmukh was the Vice-President at the relevant time. It is nobody's case that the permission of Charity Commissioner was obtained under Section 36 of the MPT Act. It is true that the law is set in motion when Satish Patil - President of Dharwad Society has filed complaint. Whether Dr.

Kumbhar signed the resolution or not is in dispute in view of his different statements.

13. Learned APP submitted that when Police have visited the office of Kolhapur Society, they did not find out any record. It is also seen that there is dispute in between the Managing Committee members of the Kolhapur Society interse. It is for the reason that Mr. Sandeep Deshmukh whose name is mentioned as Seconder of the resolution at one point of time has said that the resolution is passed. Even though the inquiry started on the complaint of Dharwad Society, during inquiry it was revealed that even the resolutions additionally shown in the name of Kolhapur Society were in doubt. Even though they are the members of Kolhapur Society, the fact remains that the permission of Charity Commissioner as per MPT Act is not obtained.

14. It is the only signatories to the gift-deed who can tell about that gift-deed. So also being signatories to that gift-deed, they can only throw light over the resolutions pertaining to Kolhapur Society. This gift-deed and resolution are important pieces of evidence. Both these Applicants do not say that any dispute about this gift-deed and

resolution is raised at their instance before any of the authorities. This Court thinks that custodial interrogation of these Applicants is required. No case for granting bail is made out. Hence, the order :-

ORDER

- (i) Both the Bail Applications are dismissed.
- (ii) Interim Applications are also disposed of.
- (iii) Interim protection stands vacated.

16. Learned Mr. Kate prayed for extension of interim protection as it was in force for long period. It is opposed by the other side. Let interim protection to continue for two weeks. Till that time Applicant – Rohit Shinde to give attendance to office of Economic Offences Wing, Satara on 9th September 2024, 16th September 2024 and 27th September 2024 between 10:00 a. m. to 12:00 noon.

[S. M. MODAK, J.]

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