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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1922 OF 2023

Pramod Tukaram Chavan

Age : 48 years, Occu. - Agriculturist,

R/at : Taliye, Tal. Koregaon, Dist. Satara.

...Applicant

vs.

1) The State of Maharashtra
(at the instance of Sr. Inspector of Police
Wathar Police Station, Satara.

2) Rajesh Prakash Kakade
Age : 35 years, Occu. - Nil
R/o. At post – Taliye,
Tal. Koregaon, Dist. Satara.

...Respondents

Mr. Sanjeev P. Kadam a/w. Mr. Pratik Deshmukh, Ms. Aditi Rajpur and Mr. Mayur Sanap i/b. Mr. Prashant Raut:-	Advocate for Applicant.
Mr. H. J. Dedhia:-	APP for State.
Ms. Manisha Deokar:-	Advocate for Respondent No.2.

CORAM : S. M. MODAK, J.

DATE : 14th JUNE 2024

P. C. :-

1. Heard learned Advocate Mr. Kadam for the Applicant, Ms. Manisha Deokar, learned Advocate for first informant and learned APP for Respondent.
2. The Applicant is granted interim protection as per Order dated 17th July 2023. The Applicant has attended the Police Station on 25th July 2023, 2nd August and 9th August 2023.
3. The FIR is lodged by the Second Respondent Rajesh Prakash Kakade, who is relative of the deceased Dinkar Kakade. It is in respect of impersonation, wherein it is stated that the Applicant is beneficiary. The sale-deed was executed on 11th March 2010 wherein the deceased Dinkar Gopal Kakade is shown as a vendor and the Applicant is shown as purchaser. The first informant has taken recourse to Court of Law after the period of 13 years by way of FIR. The first informant is original resident of village Taliye, Tal. Koregaon whereas he is now residing at Ahmedbada.
4. During investigation it was disclosed that in place of **Dinkar Kakade**, one person by name **Ramrao Dagdu Aaware** stood up and put

his thumb impression on the disputed sale-deed. The Applicant relied upon affidavit of said Ramrao filed before the Trial Court. He has denied any connection with the sale-deed. Whereas prosecution relied upon his statement recorded under Section 161 of Cr.P.C. wherein he has explained how the present applicant put his thumb impression due to misrepresentation. Statement of his son on the same line is also recorded by the Police.

5. During investigation it is also disclosed that the thumb impression of the deceased Dinkar Kakade were also taken on bank account opening form with Satara District Central Co-operative Bank. The account was opened in the name of deceased Dinkar however Ramrao stood as a Dinkar. There is one more income tax form in the name of deceased Dinkar but the co-accused Ramrao put his thumb impression as a Dinkar.

6. The police have taken thumb impressions of co-accused Ramrao and obtained an opinion of State Handwriting Expert. He has opined following facts :-

- (i) The thumb impression on the Account Opening Form and Income Tax Form tally with the thumb impression of sample taken in the Police Station.

According to Mr. Kadam it does not help the prosecution to show impersonation at the time of execution of sale-deed. Whereas, according to Ms. Deokar this account was opened earlier for the purpose of getting execution of sale-deed.

(ii) The thumb impression on disputed sale-deed does not matches with the sample thumb impressions taken at Police Station. According to Mr. Kadam, this opinion do not supports the prosecution case.

7. According to prosecution, there is one more false information given about the date of death of Dinkar. It is true that about the allegation of forgery of sale-deed and Account Opening Form, Police have already conducted the investigation. **They have disclosed one more material in respect of entry about the date of death of Ramrao.**

Two materials are placed before me. They are as follows :

(i) **The Death Certificate produced by the Applicant issued by Taliye Gram Panchayat recording the date of death of Dinkar as 8th October 2010. According to Applicant this is after sale-deed.**

Whereas the learned APP and Ms. Deokar submit that the statement of Gram Panchayat of Taliye is recorded and he has stated that this intimation was given by the Applicant only. It is orally submitted that the first informant is having the Certificate issued by Taliye Gram Panchayat mentioning that there is no entry about the date of death of

Dinkar in their record. This Certificate is of the year 2006.

(ii) In addition to this, prosecution has collected a Death Certificate from Rui Gram Panchayat recording the date of death of Dinkar as 8th May 2004. This is earlier to the execution of sale-deed.

According to Mr. Kadam, there is no reason for recording the entry of date of death of Dinkar at Rui Gram Panchayat because he was not resident of that Gram Panchayat.

8. The prayer needs to be viewed from two angles :-

- (i) If so much investigation is carried out whether custodial interrogation is required; and
- (ii) Whether the Police needs to be granted an opportunity to interrogate the Applicant to collect further materials.

9. It is true that this complaint was filed after a long gap. It is also true that Court of Judicial Magistrate First Class has refused to pass an Order under Section 156(3) of the Cr.P.C. Whereas it is passed by the Court of Additional Sessions Judge, Satara on 16th March 2023. Then only present FIR is registered.

10. I think these contentions about “legality of the said Order and belated filing of FIR” can be considered at the time of trial. Instead of

that, what is important is necessity of custodial interrogation. I think the Police needs to be granted that opportunity. Because even though the documents are collected, the Police needs to confront all those documents to the Applicant and with the help they can also collect other materials. Because what is important is how these forgeries were done. So I am not in favour of confirming the interim protection. Hence following Order :-

ORDER

- (i) Application stands rejected.
- (ii) Order dated 16th March 2023 stands vacated.

11. The request is made by Mr. Kadam to continue interim protection so that he can take chance before Hon'ble Supreme Court. Interim protection is there since long that is **continued for four weeks** from today.

12. Application is accordingly disposed of.

13. These are my prima facie observations. The learned trial Court need not be influenced by those observations.

[S. M. MODAK, J.]