

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2321 OF 2021

Kalubai Balaram Bhopi & Anr. **...APPLICANTS**

V/S.

The State of Maharashtra & anr. **...RESPONDENTS**

Mr. Nitin Sejpal *a/w. Ms. Akshata Desai for the Applicants.*

Ms. Preeti Walimbe *for the Complainant.*

Mr. Kiran Shinde, *APP for State-Respondent No.1.*

Mr. Ashutosh Gavnekar *i/by. Mr. Gavnekar Chidambar Ganesh for Respondent No.2.*

CORAM : SANDEEP V. MARNE, J.

Dated : 7 March 2024.

P.C. :

- 1) Heard learned counsel for the parties.

- 2) This application is filed seeking pre-arrest bail in connection with C.R. No. 185 of 2021 registered with Khandeshwar Police Station, Navi Mumbai under Section 420 read with Section 34 of the Indian Penal Code.

3) The prosecution story in nutshell is that, Applicant No.1-Kalubai Balaram Bhopi owned land admeasuring 37 Ares and sold land admeasuring 18 Ares to the Complainant. That despite sale of land admeasuring 18 Ares to the Complainant, Applicant No.1-Kalubai Balaram Bhopi executed a gift-deed in respect of the land admeasuring 37 Ares in favour of her son, Applicant No.2-Mohan Baluram Bhopi. On the strength of the said gift-deed, Mohan Baluram Bhopi availed credit faculties from Alibaug Co-op. Urban Bank Ltd., Raigad (**the Bank**) by offering the land so gifted as a security. On these allegations, offences under Section 420 read with Section 34 of the Indian Penal Code are registered against the Applicants.

4) The learned counsel appearing for the Applicants would submit that Applicant No.2 has repaid the entire amount of loan availed from the Bank. This position is confirmed by the learned counsel appearing for Respondent No.2-bank.

5) Ms. Walimbe, the learned counsel appearing for the Complainant would express an apprehension that even though credit facilities are repaid by Applicant No.2, he has to still ensure that the land purchased by the Complainant is made encumbrance free. Mr. Gavenkar, the learned counsel appearing for Bank undertakes to issue a written communication to the concerned Talathi about repayment of entire dues of the Bank and for deletion of encumbrance of the Bank from the concerned land. In this view of the matter, prima-facie, the

very cause for registration of FIR by the Applicants would no longer survive. In that view of the matter, the Application is allowed. The interim relief granted by this Court on 28 September 2021 is made absolute. Anticipatory Bail Application is **disposed of**.

NEETA
SHAILESH
SAWANT

SANDEEP V. MARNE, J.

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