

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2750 OF 2021**

Ashwin Hariram Ruparel and anr.] **..Applicants**

V/s.

The State of Maharashtra] **..Respondent**

Mr. Niranjan Mundargi i/by. *Ms. Keral Mehta a/w. Ms. Grishma Lad and Ms. Aishwarya Bapat, for the Applicants.*

Mr. Kedar Patil, *Advocate for Intervenor.*

Mr. Kiran C. Shinde, *APP for State-Respondent.*

Mr. P.K. Kamble ,PSI from L.T. Marg Police Station present.

CORAM : SANDEEP V. MARNE, J.

Dated : 18 March 2024.

P.C. :

1) This is an application filed under the provisions of Section 438 of the Criminal Procedure Code seeking anticipatory bail in connection with C.R. No. 482 of 2021 registered with Matunga Police Station for offences punishable under Sections 420, 465, 467, 468, 471, 474 read with Section 34 of the Indian Penal Code.

2) I have heard Mr. Mundargi, the learned counsel for the Applicants, Mr. Patil appearing for Intervenor/Complainant and Mr. Shinde, learned APP appearing for Respondent-State.

3) After having considered the submissions canvassed by the learned counsel appearing for the parties and after having gone through the documents on record, it seen that the case arises out of claims raised by three brothers of late Vijayalaxmi Hariram Ruparel to her property. It is the case of the Complainant that the Applicants who are her brothers portrayed themselves as her children with a view to grab Vijayalaxmi's property to the exclusion of the Complainant's father, who was the third brother of Vijayalaxmi. Mr. Patil has strenuously relied upon copies of two Deeds of Confirmation dated 18 October 2008 which according to Mr. Patil have been fabricated. To prove his point, he would rely upon one of the recitals in both the Deeds of Confirmation where the contents appear to be *prima-facie* different. This according to Mr. Patil is one of the facets of forgery committed by the Applicants for a raising a false claim of relinquishment of rights by other heirs of late Vijayalaxmi. He would also rely upon an Affidavit filed by the Applicant, Ashwin H. Ruparel in which both Ashwin and Yatin described themselves as sons of late Vijayalaxmi. Mr. Mundargi, is quick enough to point out that the Affidavit clearly states that Vijayalaxmi was sister of Ashwin and Yatin and that relationship of 'son' mentioned in the Affidavit is merely a typographical error.

4) Be that as it may. It appears that the dispute between the parties is essentially of civil nature. It appears that the husband and son of late Vijayalaxmi have already expired and three brothers of Vijayalaxmi claim right to succeed to her property. The Complainant, who is the son of one of the brothers of late Vijayalaxmi, claims share in Vijayalaxmi's property. It

appears that he has already filed a Civil Suit seeking a declaration that he has share in late Vijayalaxmi's property. Mr. Mundargi points out that plaint in the suit has been rejected under Order 7 Rule 11 of the Code. Mr. Patil responds by submitting that steps are being taken to challenge the order of rejection of plaint. Infact the filing of suit between parties seeking declaration about share in the property of late, Vijayalaxmi would clearly indicate that the dispute amongst them is essentially of civil nature. However, the Complainant contends that certain acts of forgery are committed in various records including in regard to the Deed of Confirmation dated 18 October 2008. This is something which the learned Magistrate would decide at the end of trial.

5) Investigations into the crime are already complete and chargesheet has been filed. In that view of the matter, the interim protection granted in favour of the Applicants deserves to be made absolute.

6) The anticipatory bail Application is allowed in terms of the following order :

(i) In the event of arrest of the Applicants in C.R. No. 482 of 2021 registered with Matunga Police Station for offences punishable under Sections 420, 465, 467, 468, 471, 474 read with Section 34 of the Indian Penal Code, they shall be released on bail on executing PR bond for the sum of Rs.25,000/- (Rs. Twenty Five Thousand only) each with one or more sureties in like sum.

(ii) The Applicants shall furnish their permanent residential address

and contact number to the Investigating Officer forthwith.

(iii) The Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

(iv) The Applicants shall remain present before the Magistrate on each date of hearing, unless exempted.

7) The application is accordingly **allowed and disposed of**.

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SANDEEP V. MARNE, J.