

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1403 OF 2024

Vitthal Namdev Yewale

...Applicant

Versus

The State of Maharashtra

...Respondent

WITH
INTERIM APPLICATION NO. 2415 OF 2024

(Not on Board.)

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MALANI

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- Mr. Niranjan Bhavake a/w Ms Drishti Madhavi i/b Bhavate & Associate, for Applicant.
- Mr. Kiran C. Shinde, APP for the State.
- Mr. Priyal Sarda a/w Mr. Pramod Kumbhar, for Intervener.

CORAM : MANISH PITALE, J.

DATE : 25th JUNE, 2024.

P. C. :

1. Heard, Mr. Niranjan Bhavake, learned counsel for the applicant and Mr. Kiran Shinde, learned APP for the State.

2. In the present case the applicant is the only accused person whose anticipatory bail application was rejected by the Sessions Court, while relief was granted to the other four co-accused persons.

3. The applicant is apprehending arrest in connection with First Information Report No.0011 of 2024, dated 11th January, 2024 registered at Police Station Saswad, District Pune Rural, for offences under Sections 420, 465, 466, 468, 471, 472, 474, 193, 199, 200, 504 and 506 r/w 34 of the

Indian Penal Code (IPC).

4. The statement of the informant leading to registration of the FIR elaborately states the actions allegedly undertaken by the accused persons, whereby false and fabricated documents were created, in order to create a record as if two different individuals were one and the same person, with the intention of taking advantage of such fabricated documents in civil proceedings, pertaining to property disputes between the parties. The informant has alleged that while one Namdev Yevele was initially married to Baidabai, who died issueless, he subsequently had married Parubai, from whom the said Namdev Yevele had children, including the applicant before this Court.

5. It is alleged that while Baidabai expired on 27th September, 1987 and the said Parubai later expired on 03rd October, 2010, the accused persons conspired and created documents to show as if the two women were one and the same person, thereby claiming that Baidabai alias Parubai expired on 03rd October, 2010.

6. Upon the offences being registered, the applicant along with the co-accused Nos. 2 to 4 applied for grant of anticipatory bail. As noted hereinabove, while accused Nos.2 to 4 were granted relief, the prayer for grant of anticipatory bail made on behalf of the applicant was rejected.

7. The learned counsel appearing for the applicant submits that the present case concerns documentary evidence, which is to be procured from the public authorities and Government Departments, for which the custody of the applicant is not required. It is submitted that there is a history to the litigation between the parties and that even the applicant had initiated criminal proceedings against the informant and others, which are still pending. This is disputed by the learned counsel appearing on behalf of the informant and there is some confusion as to whether the earlier criminal proceedings are pending or not.

8. Be that as it may, the principal contention raised on behalf of the applicant is that since he is ready to cooperate with the investigation, the physical custody of the applicant is not required.

9. The learned APP has opposed the contentions raised on behalf of the applicant, highlighting the fact that the present case involves tampering with official documents, filing false affidavits before the Court of law and creating fabricated documents, including a letter purportedly issued by accused No.4 Police Patil, which even the said Police Patil has denied as having been issued. On this basis, it is submitted that the present application deserves to be dismissed.

10. The learned counsel having instructions to appear on behalf of the informant has supported the contentions raised by the learned APP.

11. This Court has perused the statement of the informant, leading to registration of the FIR. The said statement elaborately states the chronology of events and as to the manner in which the accused persons conspired to create certain documents in order to eventually take advantage of the same in disputes pending between the parties in Civil Court.

12. The allegations include a blatantly false claim of two different women being one and the same person. This has a bearing on the rights of the rival parties in the pending civil disputes.

13. This Court is of the opinion that the statement leading to registration of the FIR raises serious allegations as regards tampering with official documents, creating fabricated documents and on that basis filing false affidavits in Court of law.

14. The Sessions Court has correctly found that in all these alleged activities, the applicant was at the forefront and that this was found to be distinguishing feature between the acts alleged against the applicant on the one hand and those alleged against accused Nos.2 to 4.

15. As to the *modus operandi* adopted in the present case for

creating such documents and tampering with the certain other documents, the investigation may require the Investigating Officer to take custody of the applicant, as he is found to have played a major role in the present case. Whether to take an accused into custody or not is within the domain of the Investigating Officer, but to prevent the Officer from doing so, the accused is required to make out a strong *prima facie* case in his favour, which the applicant has not been able to make out before this Court. No case is made out for grant of anticipatory bail.

16. Accordingly, the application is dismissed.

17. In view of the anticipatory bail application being dismissed, the intervention application is disposed of.

(MANISH PITALE, J.)