

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1537 OF 2024

Aviraj Chintaman Vairat		
Shubhangi Aviraj Vairat	...	Applicants
Vs.		
State of Maharashtra	...	Respondent

Mr. Ramji T. Kotali i/b. Mr. Sandeep Shinde for Applicants.

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

CORAM : MANISH PITALE, J.

DATE : JUNE 14, 2024

P.C. :

1. Heard Mr. Kotali, learned counsel appearing for the applicants and Mr. Shinde, learned APP appearing for the respondent - State.

2. The applicants apprehend arrest in connection with FIR No.0358 of 2024 dated 12.04.2024 registered at Pimpri Police Station, District - Pimpri Chinchwad for offences under Sections 420, 467, 468 and 471 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. There are five accused persons in this case of whom the applicants are accused Nos.1 and 2. They are husband and wife. Applicant No.2 is the daughter of the informant. The statement which led to registration of the FIR shows that according to the informant, the applicants obtained probate of a purported Will of her husband on the basis of fabrication and forgery. In the statement itself, it is stated that the applicants obtained probate from the competent civil court and that the informant initiated appropriate proceedings for revocation of probate before the concerned Court. It is alleged that when the police did not register the FIR upon the informant approaching the police for redressal of her

grievance, she was constrained to file an application under Section 156(3) of the Code of Criminal Procedure, 1973 (Cr.P.C.) before the competent magistrate. By an order dated 21.03.2023, the application was allowed and subsequently, the subject FIR was registered.

4. The learned counsel for the applicants submits that, in the present case, the competent court granted probate in respect of the Will dated 27.01.2003 by an order passed on 22.12.2017. It is submitted that the informant initiated proceedings for revocation of the probate in the year 2018 and that the said proceeding is pending. It is submitted that the nature of dispute, being a civil dispute, the resolution of which is pending before the competent civil court, initiation of criminal proceedings belatedly is not justified. It is submitted that the applicants are ready to co-operate with the investigation and therefore, this Court may consider allowing the present application.

5. On the other hand, the learned APP submits that in the present case, investigation has revealed that the medical fitness certificate of the deceased dated 27.01.2003 is shown by the applicants as having been issued by a particular doctor, but the said doctor has denied having issued any such certificate.

6. It is further submitted that during the course of investigation, the statement of the doctor brings to the fore facts that demonstrate as to the manner in which the medical fitness certificate was forged, on the basis of which, the purported Will was executed. It was brought to the notice of this Court that the other accused persons are the two attesting witnesses to the Will and the advocate, who had notarized the said document. On this basis, it was submitted that the application ought to be dismissed.

7. This Court has considered the material on record. The competent

court passed the order granting probate in respect of the Will by an order dated 22.12.2017. It appears that the informant initiated proceedings almost immediately in the year 2018 for revocation of probate and the proceeding is pending before the competent civil court. The order dated 21.03.2023 passed by the competent magistrate, allowing the application under Section 156(3) of the Cr.P.C. shows that the informant, for the first time, approached the police on 05.12.2023 for registration of offence against the accused persons. The statement leading to registration of the FIR also shows that the informant has given details about the order issuing probate and the fact that the revocation proceeding is pending before the competent civil court.

8. In such circumstances, this Court is of the opinion that in the light of the belated manner in which the informant approached the police for the first time on 05.12.2023 and the fact that she has already initiated revocation proceedings before the competent civil court, shows that a *prima facie* case is made out by the applicants in their favour. As to the value to be attached to the statement of the doctor during the course of the investigation, it would be a matter for further investigation and consequent proceedings in the present case. As long as the applicants are ready to co-operate with the investigation, they have made out a case in their favour.

9. In view of the above, the application is allowed in the following terms:-

A. In the event the applicants are arrested in connection with FIR No.0358 of 2024 dated 12.04.2024 registered at Pimpri Police Station, District - Pimpri Chinchwad, they shall be released on bail on furnishing PR Bond of Rs.25,000/- [Rupees Twenty Five Thousand only] each and a surety in the like amount;

- B. The applicants shall remain present before the investigating officer on 20.06.2024 and thereafter, as and when called by the investigating officer. They shall co-operate with the investigation;
- C. The applicants shall not influence the informant, witness or any person concerned with the case and they shall not tamper with the evidence.

10. Needless to say, violation of any of the aforesaid conditions would make the applicants liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicants in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

11. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab