

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 2997 OF 2024

Habib Ibrahim Khot	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Gaurav Parkar a/w Shantanu Kadam for the Applicant.
Mr. Mayur S. Sonavane, APP for Respondent-State.
Ms. Sunita Athane, Head Constable, EOW Raigad.

**CORAM: MANISH PITALE, J.
DATE : 11th NOVEMBER 2024**

P.C. :

1. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant in the present case is apprehending arrest in connection with FIR No. 0081 of 2024 dated 14th October 2024 registered at Dadar Coastal Police Station, Dist. Raigad, for offences under Sections 420, 465, 466, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 (IPC).

3. There are total 5 accused persons in the present case. Briefly stated the allegation of the informant is that the names of the co-accused Nos.1 to 4 were illegally added by way of mutation in the revenue record, while the rightful owner of the said property is the informant himself. It is alleged that the applicant, who is a

stamp vendor, was actively involved with the co-accused Nos.1 to 4 in the aforesaid act of illegal mutation entries being carried out with respect to immovable property, in which the informant has rights through heirship.

4. The learned counsel for the applicant submitted that documents filed along with the application would show that the co-accused Nos.1 to 4 had obtained a proper heirship certificate in accordance with law, from a Competent Court, on the basis of which the mutation entries were made in the revenue record. It was submitted that the informant himself had moved such a proceeding, but the same was dismissed for want of prosecution in the year 2022.

5. It was further submitted that the whole basis of involving the applicant in the present case is the version given by an Advocate allegedly engaged by the informant, to investigate as to the manner in which the mutation entries were illegally carried out. It is brought to the notice of this Court that the applicant and the said Advocate have a history of rivalry, wherein they have caused FIRs to be registered against each other. It is further submitted that even if the statement of the said Advocate is to be taken into consideration, it would amount to the co-accused in the present case i.e. Jayantilal Javerchand Marwadi, giving a statement involving the applicant in the present case. It is submitted that the applicant is ready to cooperate with the investigation and therefore, this Court may consider allowing the application.

6. The learned APP has opposed the application by relying upon investigation papers. Relevant documents were brought to the notice of this Court, including the statements of the aforesaid Advocate, as also two other witnesses who were engaged by the informant to take appropriate steps in the light of the illegal manner in which the mutation entries were brought about in favour of accused Nos.1 to 4. It was submitted that the applicant has criminal antecedents and he is a co-accused with the said Jayantilal Javerchand Marwadi in another criminal case. It is submitted that the custodial interrogation of the applicant is necessary.

7. This Court has considered the rival submissions in the light of the material brought to the notice of this Court, including the relevant documents from the investigation papers.

8. Having considered the same, this Court is inclined to allow the present application, for the following reasons :

- (a) The role of the applicant along with the co-accused Nos.1 to 4 has been stated on the basis of the version given by the aforesaid Advocate, allegedly engaged by the informant and also the two witnesses, who were given the task of taking appropriate action in the light of the alleged illegal mutation of revenue entries. The Advocate evidently has a history of rivalry and quarrels against the applicant, which is evident from the copies of the FIRs placed on record, wherein the

said Advocate is an accused and the informants are the wife and sisters of the applicant. The said FIRs were registered prior in point of time when compared to the subject FIR.

- (b) The documents on record show that a legal heirship certificate was issued by the Competent Court in favour co-accused Nos.1 to 4 in respect of the said immovable property. The said certificate is dated 4th May 2016 and there is nothing to show that the same has been set aside, in accordance with law. On the contrary, such a proceeding initiated by the informant himself for issuance of legal heirship certificate, resulted in the matter being dismissed for want of prosecution on 18th July 2022, as per an order passed by the Competent Court. In such a situation, to claim that the mutation entry in favour of co-accused Nos.1 to 4 is illegal, *prima facie* appears to be without much substance.
- (c) The applicant being a stamp vendor *prima facie* cannot be said to be a beneficiary of the aforesaid illegal act, as his name has not been mutated in the concerned revenue entry and there does not appear to be any material to show any money trail or other benefit accruing to the applicant as a consequence of the aforesaid alleged illegal mutation entry.
- (d) The material on record shows that as regards two FIRs registered against the applicant, in one case a NC summary has been filed by the Police and in the other case a closure

report has been placed on record. As regards other two criminal antecedents, the existence of the same in itself cannot be a ground to reject the present application, in the light of the fact that the applicant has made out a *prima facie* case in his favour in the facts and circumstances brought to the notice of this Court.

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

(a) In the event the applicant is arrested in connection with FIR No. 0081 of 2024 dated 14th October 2024 registered at Dadar Coastal Police Station, Dist. Raigad, he shall be released on bail on furnishing PR Bond of Rs.25,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(b) The applicant shall remain present before the Investigating Officer on 14th and 15th November 2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer. The applicant shall cooperate with the investigation.

(c) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses or any other person concerned with the case.

10. Needless to say, violation of any of the aforesaid conditions

would make the applicant 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 applicant in the present application.

11. The application is disposed of.

MANISH PITALE, J.