

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2055 OF 2024

Rajendra Hiranman Mhatre
Sharad Hiranman Mhatre
Subhrada Chandrakant Talkar ... Applicants
Vs.
State of Maharashtra ... Respondent
WITH
INTERIM APPLICATION NO.2939 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.2055 OF 2024

Mr. Aniket Nikam a/w. Mr. Sumit Patil and Mr. Manoj Gadhave i/b. Mr. Pavan Patil for Applicants.

Mr. Sagar R. Agarkar, APP for Respondent-State.

Mr. Sachin Dhakephalkar for Applicant in IA/2939/2024.

Mr. Sachin Waykar, PSI, Panvel City Police Station.

CORAM : MANISH PITALE, J.

DATE : AUGUST 16, 2024

P.C. :

. Heard Mr. Nikam, learned counsel for the applicant, Mr. Agarkar, learned APP for the respondent-State, as also Mr. Dhakephalkar, learned counsel having instructions to appear for the first informant.

2. The applicants are apprehending arrest in connection with FIR No.0340 of 2024 dated 23.05.2024 registered with Panvel City Police Station, Navi Mumbai, for offences under Sections 420 and 465 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The informant, in the present case, is the cousin of the applicant Nos.1 and 2 and the applicant No.3 is the paternal aunt of the informant. In her statement, the informant has alleged that the applicants have indulged in cheating and forgery by getting a specific document dated

04.07.2011 registered before the competent authority, claiming that the said document was a release deed executed by applicant No.3 in favour of applicant No.1. It is submitted that the said document came to light when the informant and her sisters asserted their rights in ancestral property after the death of the father of the informant on 22.03.2024. It is stated that some time in June 2023, when such rights were asserted, the applicants refuted the same and this gave rise to enquiries being made by the informant, leading to the said document dated 04.07.2011.

4. The learned counsel for the applicant submitted that the aforesaid document i.e. a release deed, indeed had defects inasmuch as the father of the informant was shown as dead, while he was alive and an order passed in favour of the father of the informant in respect of the ancestral property under Section 32-G of the Bombay Tenancy and Agricultural Lands Act, 1948 (Tenancy Act) was erroneously shown as a legal heirship certificate. It was submitted that upon the aforesaid dispute arising, on 16.02.2024, a registered rectification deed was executed. But, unfortunately, the defects could not be completely rectified and in such circumstances, it cannot be inferred that the applicants had any intention to cheat. It is submitted that in any case, by the aforementioned documents, applicant No.3 released only her share in favour of applicant No.1 and hence, it cannot be said that there was an intention on the part of the applicants to cheat the informant.

5. On the other hand, the learned APP submits that blatantly false statements have been made and recorded in the registered release deed dated 04.07.2011. A specific assertion is made regarding a legal heirship certificate, said to have been issued by the Competent Court at Panvel, when no such document exists. The father of the informant is shown as dead. His brother is shown as his son and the said person is also shown as dead, leaving only the applicant Nos.1 and 3 as the persons alive when the aforesaid document dated 04.07.2011 was registered. The

registered rectification deed dated 16.02.2024 also suffers from the same defects and false statements, thereby indicating that the offences registered against the applicants are made out.

6. The learned counsel appearing for the first informant submits that in pursuance of the order passed under Section 32-G of the Tenancy Act, a certificate under Section 32-M thereof was issued in favour of the father of the informant. The same was challenged before the Maharashtra Revenue Tribunal. The said Tribunal set aside the certificate issued under Section 32-M of the Tenancy Act, and therefore, the father of the informant was constrained to file writ petition before this Court. The same is pending and after the death of the father of the informant, she along with her siblings have been added as legal representatives in the writ proceedings.

7. It is submitted that the whole basis of the said writ proceedings and claims made therein would be taken away by the effect of the aforesaid forged and concocted document dated 04.07.2011, brought into existence by the applicants. The subsequent rectification deed is also no good as the same false statements are repeated, and therefore, all the ingredients of the offences registered against the applicants are clearly made out. The sole intention and purpose of getting such documents executed and registered is to cheat the informant and her siblings of their rightful claim in the aforesaid property. On this basis, the prayer made in the present application is vehemently opposed.

8. This Court has considered the rival submissions. In the first place, it is found that the applicant No.3 is a woman and she is 80 years old. Only on this ground, this Court is inclined to grant relief to the applicant No.3. As regards applicant Nos.1 and 2, it is found that the aforesaid document dated 04.07.2011 does show that the entire benefit of the said document accrues to applicant No.1. On the face of it, *prima facie*, it

does appear that false statements are part of the said document, inasmuch as reference is made to a legal heirship certificate while none exists. Even the rectification deed of 16.02.2024 carries the same false assertions. It is also a matter of record that both the documents show the father of the informant dead before the registered document dated 04.07.2011 was executed, while he expired much later in the year 2024. There can be no doubt about the fact that the aforesaid statements are factually incorrect and that, applicant Nos.1 and 3 were directly involved as they are the signatories to the said document. The explanation sought to be given by the applicants that the order dated 22.02.2011 passed by the competent authority under Section 32-G of the Tenancy Act was erroneously stated as a legal heirship certificate, cannot be accepted at this stage itself. In any case, the effect of the said false statements and the registered documents dated 04.07.2011 and 16.02.2024 appears to be that the informant and her siblings may be completely deprived of their claim in the ancestral property. Therefore, it cannot be said that the ingredients of the offences alleged against the applicants are not made out.

9. But, the nature of allegations in the present case does indicate that the investigation would necessarily involve documentary evidence and material. The most crucial documents being the registered release deed dated 04.07.2011 and the subsequent rectification deed dated 16.02.2024, the learned counsel appearing for the applicants, on instructions, has made a statement that these documents shall be deposited with the investigating officer on the first date on which the applicant Nos.1 and 2 would be directed to appear before the investigating officer. An undertaking is also given that the applicants will co-operate with the investigation.

10. In view of the above, while keeping this application pending, this Court is inclined to pass an interim order. There shall be interim order in

the following terms:-

- A. Till the next date, in the event the applicants are arrested in connection with FIR No.0340 of 2024 dated 23.05.2024 registered with Panvel City Police Station, Navi Mumbai, they shall be released on bail on furnishing PR Bond of Rs.25,000/- [Rupees Twenty Five Thousand only] each with one or two sureties in the like amount;
- B. The applicant Nos.1 and 2 shall appear before the investigating officer on 20.08.2024 between 10:00 a.m. and 12 noon and thereafter as and when called by the investigating officer. They shall co-operate with the investigation. Applicant No.3, being a senior citizen aged about 80 years, is exempted from appearing before the investigating officer although she shall co-operate with the investigation;
- C. The applicants shall deposit the aforesaid two documents i.e. registered sale deed dated 04.07.2011 and registered rectification deed dated 16.02.2024 with the investigating officer on the first date when they appear before the investigating officer;
- D. The applicants shall not influence the informant, witness or any person concerned with the case and they shall not tamper with the evidence.

11. Needless to say, violation of any of the aforesaid conditions may result in this order being recalled.

12. List the application for further consideration on 20.09.2024 in the supplementary board.

(MANISH PITALE, J.)