IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2055 OF 2024

1. Rajendra @ Raju Hiraman Mhatre
2. Sharad Hiraman Mhatre
3. Subhrada Chandrakant Talkar ...Applicants

Versus

The State of Maharashtra ...Respondent

SHRIKANT SHRINIVAS MALANI

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Date: 2024.09.27 18:05:22 +0530

WITH

INTERIM APPLICATION NO. 2939 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 2055 OF 2024

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- Mr. Aniket Nikam, for Applicant.
- Mr. Sagar R. Agarkar, APP for Respondent.
- Mr. Sachin Dhakephalkar, for Applicant in IA/2939/2024.
- Mr. Sachin Waykar, PSI, Pancel City Police Station.

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CORAM : MANISH PITALE, J.
DATE : 27th SEPTEMBER, 2024.

P. C. :

1. Heard, Mr. Nikam, learned counsel for the applicant, Mr. Agarkar, learned APP for the Respondent – State and Mr. Dhakephalkar, learned counsel appearing for the Intervener (First Informant).

2. On 16.08.2024, this Court granted interim relief in favour of the applicants, with a direction to applicant Nos.1 and 2 to appear before the Investigating Officer on 20.08.2024 and thereafter as and when called by the Investigating Officer. The applicant Nos.1 and 2 were directed to cooperate with the investigation.

3. This Court took note of the fact that applicant No.3 is a senior citizen and a lady and therefore, she was exempted from appearing personally before the Investigating Officer.

4. The learned APP reports that the applicant Nos.1 and 2 have cooperated with the investigation.

5. While granting relief in favour of the applicants in the order dated 16.08.2024, this Court made the following observations :

> *"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."

6. For the aforementioned reasons and after hearing the rival parties again, this Court is convinced that the interim order can be confirmed and the

application can be allowed, as the applicants have indeed cooperated with the investigation.

7. Hence, the interim order dated 16.08.2024 is confirmed and the application is allowed. The applicant Nos.1 and 2 shall continue to cooperate with the investigation. Condition No.(D) imposed in the interim order shall continue to operate.

8. Needless to say, the observations made in the order dated 16.08.2024 and in the order passed today are limited to the question of granting anticipatory bail to the applicants in connection with First Information Report No.0340 of 2024, registered at Panvel City Police Station, Navi Mumbai.

9. If the applicants violate any of the conditions imposed upon them while granting relief, the order of anticipatory bail granted in their favour would be liable to the cancelled.

10. The application is disposed of.

11. In the light of disposal of the bail application, intervention application is also disposed of.

(MANISH PITALE, J.)