



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 579/2023

SHAIKH SALIM SHAIKH SIRAJODDIN AND OTHERS
VS

STATE OF MAH. THR. PS IN-CHARGE, KHAMGAON CITY PS, TQ. KHAMGAON
DIST. BULDHANA

WITH

CRIMINAL APPLICATION (ABA) NO. 571/2023

MUNAWWARALI SAIFUDDIN BABJI
VS

STATE OF MAH. THR. PS IN-CHARGE, KHAMGAON CITY PS, TQ. KHAMGAON,
DIST. BULDHANA

WITH

CRIMINAL APPLICATION (ABA) NO. 572/2023

ABDUL RAHAMAN ABDUL SATTAR
VS

STATE OF MAH. THR. INCHARGE, KHAMGAON CITY PS, TQ. KHAMGAON,
DIST. BULDHANA.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. C.S. Dharmadhikari, counsel for applicants.
Mr. A.R.Chutke, APP for the non-applicant/State.
Mr. V.R.Deshpande, counsel for Asst. to Prosecution.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 03/01/2024.

1. By this applications, the applicants are seeking pre-arrest bail, in the event of their arrest, in connection with Crime No. 425/2023 registered with Police Station Khamgaon City, District Buldhana for the offences punishable under Sections 365, 463, 464,

466, 468, 471, 474 read with Section 34 of the Indian Penal Code, 1860.

2. The criminal application (BA) No. 571/2023 is filed by original accused no.4- Munawwarali Saifuddin Babji, whereas criminal application (BA) No. 572/2023 is preferred by accused no.3 - Abdul Rahaman Abdul Sattar and criminal application (BA) No. 579/2023 is preferred by original accused No.-5 - Shaikh Salim Shaikh Sirajoddin, accused No.6 – Sunil Uttamrao Kadam and accused No.7- Vijay Kalyansahay Surajwani.

3. The applicants are apprehending arrest at the hands of Police as crime is registered on the basis of directions issued by the Judicial Magistrate First Class, Khamgaon under the above Sections. As per the allegations Gut No. 223, admeasuring 2.42 R situated at Mouza Kanjara, Tq. Khamgaon District Buldhana was owned by Kisan Balwar. The said Kisan Balwar executed Will-Deed on 19/08/2014 in favour of the first informant – Gopal Vhalabdhhas Khandelwal. In view of the said sale-deed, the informant became the owner of the said property. It is alleged that the co-accused Mohd. Khurshid Mohd. Kasam and Mohd. Kasab and Mohd. Rais Mohd. Saeed executed the Power of Attorney in favour of the accused No.3 – Abdul Rahman Abdul Sattar and accused Nos. 5 and 6

stood as witnesses on the said Power of Attorney, and the accused Nos. 1 and 2 executed sale-deed in favour of the accused No.4 of the said property. Accused Nos. 6 and 7 are the witnesses of the said sale-deed. The informant obtained the said document and it revealed to him that, all the accused, including the present applicants in furtherance of their common intention executed forged documents and used as a genuine one. On the basis of the said allegations, the crime is registered against the present applicants.

4. The learned counsel Mr. C.S. Dharmadhikari for the applicants submitted that the Power of Attorney which is filed on record shows that it was executed in favour of the accused No.3 i.e. Abdul Rahaman Abdul Sattar, who is applicant in criminal application (BA) No. 572/2023, is the Power of Attorney holder and the said Special Power of Attorney was executed only for pursuing the litigation in civil writ petition filed in this Court. Whereas, the accused No.4- Munawarali Saifuddin Babji, who is the applicant in criminal application (BA) No. 571/2022, is a purchaser of the said disputed property, and the other applicants are the witnesses of the Power of Attorney of the sale-deed.

5. He further submitted that after granting the interim protection, the applicants have cooperated

with the investigating agency, and they have not misused the liberty. As far as the custodial interrogation is concerned, which is not required as the entire documents which are registered one, are already collected by the Investigating Agency, during the investigation. In view of that, the interim protection granted to the present applicants deserves to be confirmed in their favour.

6. The said application is strongly opposed by the State on the ground that, though they have carried out the investigation, but considering the nature of allegations, their custodial interrogation is required, and in view of that, bail applications deserves to be rejected.

7. Having heard learned counsel for the applicant and learned APP for the State perused the recitals of the FIR, as well as the order passed by the learned Trial Court under Section 156(3) of the Code of Criminal Procedure. The role assigned to the applicant i.e. original accused No.3 – Abdul Rahaman Abdul Sattar is only to the extent that the Power of Attorney was executed in his favour. The recitals of the Power of Attorney shows that, it was executed only to assigning the power to look after the litigation i.e. civil writ petition, which is filed before this Court. Whereas, the other applicants i.e. original accused –

Shaikh Salim Shaikh Sirajoddin, Sunil Uttamrao Kadam and Vijay Kalyansahay Surajwani stood as witnesses, and no active role is played by them. Whereas, the accused No.4 is the purchaser of the said disputed property.

8. It is fairly submitted by the learned APP also, upon instructions, they have cooperated with the investigating agency and attended the concerned Police Station.

9. Moreover, considering that substantial investigation is already completed, relevant documents are already in custody of the investigating officer and physical custody of the present applicants is not required. Nothing is to be recovered from them. In view of that, interim protection granted in their favour deserves to be confirmed. Accordingly, I proceed to pass following order:

- a) The criminal applications are **allowed**.
- b) In the event of their arrest in connection with Crime No. 425/2023 registered with Police Station Khamgaon City, District Buldhana for the offences punishable under Sections 365, 463, 464, 466, 468, 471, 474 read with Section 34 of the Indian Penal Code, 1860, applicants in

Criminal Application (ABA) No. 579/2023 namely (1) Shaikh Salim Shaikh Sirajoddin (2) Sunil Uttamrao Kadam (3) Vijay Kalyansahay Surajwani; and in **Criminal Application (ABA) No. 571/2023** – Munawwarali Saifuddin Babji; and in **Criminal Application (ABA) No. 572/2023** – Abdul Rahaman Abdul Sattar are released on Anticipatory Bail on executing P.R. bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

- c) The applicants shall attend concerned police station as and when required for the investigation purpose and shall cooperate with the investigating agency.
- d) The applicants shall furnish their cell phone numbers and address with the address proof before the investigating agency.
- e) The applicants shall not induce threat or promise to any witnesses, who are acquainted with the facts of the present case.

The criminal applications are disposed of.

**Criminal Application (APPP) Nos. 1533/2023 and
(APPP) Nos. 1534/2023**

1. These applications are filed by the informant for seeking permission to engage counsel to assist the prosecution.
2. In view of the reasons mentioned in the applications, applications are allowed. The informant is permitted to engage counsel to Assist the Prosecution.
3. The criminal applications are **disposed of**.

[URMILA JOSHI-PHALKE, J]