



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

CRIMINAL APPLICATION (ABA) NO.665 OF 2023

Satish Bansilal Chandak and another
Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Khamgaon City District Buldhana

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. V. Sirpurkar, Advocate for applicants.
Mr. M. J. Khan, APP for respondent No.1/State.
Ms. F. N. Haidari, Advocate for assist to prosecution.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 01/04/2024

1. Apprehending the arrest at the hands of police in connection with Crime No.492/2023 registered with Police Station, Khamgaon City, District Buldhana for the offences punishable under Sections 405, 406, 408, 409, 415, 416, 419, 420, 421, 423, 424, 425, 463, 464, 465, 466, 467, 468, 470, 471, 477A, 120B read with section 34 of the Indian Penal Code, the applicants approached this Court for grant of pre-arrest bail.

2. The allegation against the present applicants is on the basis of report registered, in view of the order passed by the learned Judicial Magistrate First Class, Khamgaon under Section 156(3) of the Code of Criminal Procedure (Cr.P.C.).

3. As per the allegations, the present applicants with the help of other co-accused, forged a relinquishment deed in 2011 by forging the signature of the informant in favour of the applicant No.2. On the basis of which the crime is registered.

4. Learned Counsel Mr. Sirpurkar for the applicants submitted that initially, the informant has moved an application under Section 156(3) of Cr.P.C. which is rejected by the learned Judicial Magistrate First Class on 11.12.2017. Against the said order, the informant has preferred the Criminal Revision bearing No.5/2018 which is also dismissed by the Revisional Court and liberty was granted to file appropriate proceedings. Thereafter, again the application under Section 156(3) of Cr.P.C. was filed bearing No.189/2023. The learned Magistrate without considering the previous order, directed the Khamgaon Police to investigate the allegations and therefore, the present FIR is lodged.

5. A special Suit No.6/2018 wherein the applicants appeared and filed their written statement which shows that the property belongs to the applicant No.1 as well as his brother Ramlal and there was some dispute regarding the said property and it is alleged by the plaintiff that the relinquish deed is falsely prepared by the present applicants. In fact, the alleged incident is of year 2011, after 10 to 11 years this FIR is lodged.

6. The Division Bench of this Court has already issued the order in favour of the present applicants directing the Investigating Officer to carry out the investigation, but not to file the charge-sheet. After releasing them on anticipatory bail, they have cooperated with the investigating agency. As far as the custodial interrogation is concerned, which is not required, as the entire evidence is in the nature of documents. The applicants are ready to cooperate with the investigating agency. In view of that, they be protected by confirming the anticipatory bail in their favour.

7. Learned APP and the learned Counsel for the informant strongly opposed the application on the ground that second application under Section 156(3) of Cr.P.C. is entertained by the learned Magistrate by recording the reasons. As the *prima facie* case is made out against the present applicants, the investigation was directed by the learned Magistrate. The custodial interrogation of the present applicants is required to ascertain the fact that who is the author of the said forged documents. They further submitted that considering the *prima facie* case and the relinquishment deed on the basis of which the applicants have grabbed the property of the deceased sufficiently shows the role played by them. In view of that, the application be rejected.

8. After hearing the learned Counsel for the applicants and learned APP for the State and learned Counsel for the informant, perused the investigation papers. Admittedly, the alleged relinquishment deed is dated 29.01.2011. First time the complaint was made by the complainant in the year 2017 by filing an application under Section 156(3) of the Code of Criminal Procedure. The said application was rejected not only because the application was not supported by the affidavit, but the learned Magistrate has also considered the merit of the application. The said order was challenged by the informant before the Revisional Court and the Revisional Court has also dismissed the said revision, but the liberty was granted to file an appropriate application. Thereafter, in the year 2023 i.e. after rejection of the first application in the year 2023, the second application is filed. It further reveals that the Special Civil Suit is also pending between the parties bearing No.6/2018, wherein the present applicants have filed the written statement stating that the relinquishment deed was issued and executed in the favour of the applicant No.1. The order passed by the learned Magistrate on the basis of which the crime was registered and the applicants have also approached the Division Bench for quashing of FIR wherein, the Division Bench of this Court directed the Investigating Officer to carry out the investigation, but not to file the charge-sheet.

8. After going through the recitals of the FIR and after going through investigation papers, it reveals that allegation revolves around the execution of the relinquishment deed. The specimen handwriting of the complainant was forwarded to the handwriting expert and the opinion of the handwriting expert shows that it is not the handwriting of the complainant.

10. Considering the entire investigation carried out by the investigating agency to ascertain according to the investigating agency the custodial interrogation of the present applicants is required. The record shows that after releasing the present applicants on ad-interim protection they have cooperated with the investigating agency and attending the Police Station.

11. Considering all these facts, the custodial interrogation of the present applicants is not required. The part of the interrogation can be taken care of by imposing certain conditions on the present applicants. In view of that, the application deserves to be allowed by confirming the interim protection in favour of the present applicants. Accordingly, I proceed to pass following order.

ORDER

(i) In the event of arrest in connection with Crime No.492/2023 registered with Police Station, Khamgaon City, District Buldhana for the offences

punishable under Sections 405, 406, 408, 409, 415, 416, 419, 420, 421, 423, 424, 425, 463, 464, 465, 466, 467, 468, 470, 471, 477A, 120-B read with section 34 of the Indian Penal Code, the applicant **No.(1) Satish Bansilal Chandak** and **No.(2) Sau. Kiran Satish Chandak** shall be released on anticipatory bail on furnishing PR bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

(ii) The applicants shall attend the concerned Police Station on every Friday between 10.00 a.m. to 1.00 p.m., till further orders and shall cooperate with the investigating agency.

(iii) The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)