



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

CRIMINAL APPLICATION (ABA) NO. 426 OF 2024

Mangesh s/o Ramkrushna Sathe V/s State of Maharashtra

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

Court's or Judge's Order

Mr. A.A. Naik, counsel for the applicant.

Mr. M.J.Khan, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 20/06/2024.

1. Apprehending the arrest at the hands of police, in connection with crime No. 411/2024 registered with Police Station Kharangana, District Wardha for the offences punishable under Sections 420, 447, 465, 467 and 468 of the Indian Penal Code, 1860 and under Section 4 of the Maharashtra Felling of Trees (Regulation) Act, 1964, the applicant has approached this Court for grant of pre-arrest bail.

2. The accusations against the present applicant is on the basis of report lodged by Nalini Shamraoji Patil, who is the sister of the original owner of the land bearing Survey No.50 admeasuring 15.91 H.R.. Learned counsel for the applicant submitted that the Makta Patrak was executed in favour of the present applicant to cultivate the land by the original owner, and in pursuance of the same, the possession was handed over and he was cultivating the land. But the informant, who is sister of the original owner,

now filed the report and alleging that the said Makta Patrak is forged one. The original owner has not filed any report till today, after execution of that said Makta Patrak. He submitted that the applicant has already filed the civil suit and subsequent to filing of the civil suit, this FIR is lodged. He submitted that at the most, the dispute appears to be of a civil nature. As far as the custodial interrogation for recovery of the said Makta Patrak is concerned, which is already filed by the present applicant in the civil suit. Considering the same, his custodial interrogation is not required. In view of that, he be protected by granting ad-interim protection.

3. Learned APP strongly opposed the said application and invited my attention towards the observation of the trial Court in para-10, wherein it is observed that the statement recorded during the investigation shows that without informing the complainant, the applicant took possession of the field and started cultivating it. It further shows that the fabrication of the document is a serious offence and unless document in question is seized, further investigation is not possible and rejected the prayer of the present applicant.

4. After hearing learned counsel for the applicant and learned APP for the State, perused the recitals of the FIR and as well as the copy of Makta Patrak. It reveals from the FIR and copy of Makta Patrak which is allegedly executed in favour of the present applicant. The plaint of Regular Civil

Suit which was filed by the present applicant to save his possession and for the declaration that the possession of the present applicant is legal one.

5. Admittedly, the report is filed by the informant subsequent to filing of the suit. After perusal of the entire documents, it reveals that Makta Patrak is already the part of the proceedings of the civil suit, therefore custodial interrogation immediately is not required. As far as the interrogation part is concerned, which can be taken care of by imposing certain conditions on the present applicant. In view of that, the prayer of the grant of pre-arrest bail deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- a] Issue notice to the non-applicant, returnable after two weeks.
- b] Learned Additional Public Prosecutor waives service of notice on behalf of non-applicant/State and seeks time to file reply.
- c] In the event of arrest, in connection with crime No. 411/2024 registered with Police Station Kharangana, District Wardha for the offences punishable under Sections 420, 447, 465, 467 and 468 of the Indian Penal Code, 1860 and under Section 4 of the Maharashtra Felling of Trees (Regulation) Act, 1964, the applicant – Mangesh

s/o Ramkrushna Sathe, shall be released on ad-interim anticipatory bail on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.

- d] The applicant shall produce the copy of the Makta Patrak before the investigating officer and shall attend the concerned police station once in a week on Sunday between 10.00 a.m. to 01.00 p.m and shall cooperate with the investigating agency.
- e] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

Stand over after **two weeks**.

[URMILA JOSHI-PHALKE, J.]