



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

942 ANTICIPATORY BAIL APPLICATION NO. 1506 OF 2023

MOHAMMAD AYUB MOHAMMAD KHAJA

VERSUS

THE SUPERINTENDENT OF POLICE AND ANOTHER

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Advocate for Applicant : Mr. Shailendra S. Gangakhedkar

APP for Respondent/State: Ms. Neha B. Kamble

Advocate for Assist to PP :

Mr. F. K. Patel a/w. Mr. N. E. Deshmukh

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WITH

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ANTICIPATORY BAIL APPLICATION NO. 1520 OF 2023

MOHAMMED ALI KHAN GOUS KHAN QUADRI

VERSUS

THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Rajendrraa Deshmukkh, Senior

Advocate a/w. Ms. Ashwini S. Deshmukh & Ms. Meenal S.

Deshmukh i/b. Mr. Syed Afzal Pasha Quadri

APP for Respondent/State: Ms. Neha B. Kamble

Advocate for Assist to PP :

Mr. F. K. Patel a/w. Mr. N. E. Deshmukh

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CORAM : ARUN R. PEDNEKER, J.

DATE : 28.03.2025

P.C. :

1] Heard learned counsel for the applicants and
the learned APP for the respondent-State.

2] The applicants are apprehending arrest in connection with Crime No.0237/2023, registered at Itwara Police Station, District Nanded, for the offences punishable under Sections 420, 448 r/w. 34 of the Indian Penal Code & under Section 52-A of the Wakf Act.

3] This court by order dated 13.09.2023 granted interim protection to the applicants noticing submissions at para 3, as under:

“3. Learned Senior Advocate appearing for Applicant states that offence under Section 52-A of Wakf Act, 1955 could not have been initiated on the basis of FIR as sub-section (3) contemplates a complaint to be made by Board or any Officer Authorised by the State Government in this behalf. It is submitted that in the present case FIR has been lodged in respect of the said offence. It is further submitted that perusal of the FIR itself indicates that it is a civil dispute in respect of obtainment of the possession of property by the Board from original lessee.”

4] The case against the applicants is that they have disposed the property of the wakf by the notorised agreement to sale. The applicant in ABA/1506/2023 is the lessee of the property, which was leased to him by the wakf, which in turn has been disposed of by the applicant therein to the applicant in ABA/1520/2023.

5] The Chief Executive Officer of the wakf board is entitled to recover the property if disposed erroneously by the lessee in terms of the powers available to him under the

Wakf Act. As regards the present offence is concerned, the same could not have been registered in view of the bar under Section 52-A(3) of the Wakf Act and the same has been noted in the order dated 13.09.2023.

6] Considering the same and also considering the submissions of the learned APP, who has submitted that in the instant case, the purchaser has been cheated, however, the purchaser is also the accused in the instant case.

7] Considering the above aspect of the matter, the interim protection granted by order dated 13.09.2023 and considering that the nature of the dispute primarily being civil in nature, the interim protection can be confirmed.

8] In view of the above, the interim protection granted by order dated 13.09.2023 stands confirmed, on the following terms:

- i] The applicants shall attend the police station as and when required by the Investigating Officer.
- ii] The applicants shall not tamper with the evidence of the prosecution in any manner. They shall not influence the informant, witnesses and other persons concerned with the case.

iii] The applicants shall co-operate with the investigation and also in the proceedings before the trial Court.

9] In the event, the applicants violate any of the conditions specified in this order, it shall be liable to be cancelled.

10] It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail applications and the trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

11] The applications stand disposed of.

[ARUN R. PEDNEKER]
JUDGE

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