



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

10 ANTICIPATORY BAIL APPLICATION NO. 1805 OF 2023

RAMESH MOHAN AADE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

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Mr. A. G. Talhar, Advocate for applicants
Mrs. M. N. Ghanekar, APP for the respondent/State
Mr. P. M. Nagargoje, Advocate for the informant.

CORAM : R. M. JOSHI, J.

DATE : 6th JANUARY, 2025

PER COURT :-

1. Applicants apprehend arrest in connection with Crime No. 377/2023, registered with Pundlik Nagar Police Station, Aurangabad for the offences punishable under Sections 406, 420, 467, 468, 471, 34 of the Indian Penal Code.

2. First informant is sister of applicant no.1. She claims that her husband who was in the police service has purchased the subject plot in the name of applicant no.1. It is further claimed that after the retirement of her husband in the year 2013, partition was effected of the said property by consent of both sides. It is further stated that all the respective parties were in possession of the portion came to their share. There is allegation that the applicant no.1 had sold shop no.2 to son of the informant for consideration of Rs.15 lakhs and he was handed over

possession thereof. It is stated that thereafter applicants came to the informant with a request to allot the premises on plot nos. 26, 27 and 30 to them on rental basis to conduct activity of ladies hostel. As the parties were closely related, the said agreement was entered into, however, the applicants have failed to pay rent to the informant and her son. It is her further allegation that in spite of the sale of the property by applicant no.1 to the son of the informant, applicant no.1 had mortgaged the said property with private financial institution and thereby has cheated informant and her son.

3. Learned counsel for the applicants submits that informant is not victim and as such the report lodged at her instance cannot be considered. It is his submission that only for the reason that the informant is wife of retired police officer, though the issue involved herein is civil in nature, the first information report is registered by the police. It is his submission that the applicants had filed civil suit against informant and her son and the said issue is sub judice before the Civil Court. He further argued that the sale deed executed between the parties clearly indicates that the flat on plot no. 26 was not sold to the son of the informant and the mortgage has been created in respect of plot no. 30. To support the said submission he has placed reliance on the documents placed on record.

4. Learned APP and learned counsel for the informant opposed the application on the ground of seriousness of the crime and that this is case of fabrication of records and cheating. Learned counsel for the informant has sought to be drawn attention of the Court to the various documents which are filed along with his application for assisting APP. The sum and substance of his contention is that the applicants have cheated informant and her son. It is his submission that any one can set the law in motion and as such there is no substance in the contention of the learned counsel for the applicant that the first information report lodged by the informant is not valid.

5. There is no dispute about the fact that parties are closely related to each other. They have made allegations against each other of fabricating the document. Undeniably, suit between them is pending before the competent civil Court. The main grievance of the informant is about execution of mortgage in respect of the property which is sold to her son and thereby it is claimed that they are cheated. In this regard prima facie document placed on record i.e. agreement dated 03/05/2024 clearly shows that the son of the informant was sold flat no.1 from plot no. 30. On the other hand the mortgage with the financial institution in respect of plot no. 26. Having regard to this material fact this Court *prima facie* accepts the contention of learned counsel for the applicants

that the dispute between the parties is civil in nature. As the documents which are involved in this case are available with the financial institution, nothing is to be recovered at the instance of the present applicant. Apart from this the a statement is made that the applicants have co-operated in the investigation and have supplied the copies of documents as called upon by the Investigating Officer.

6. The liberty of the applicants was protected by order dated 10/11/2023. There is nothing on record to indicate that they have misused the said liberty. They have also co-operated the investigation. Hence, this Court finds no reason for rejecting the application and hence, application stands allowed in terms of interim order dated 10/11/2023 except for the condition to attend concerned Police Station.

(R. M. JOSHI, J.)

ssp