



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1422 OF 2024

1. Kondopant Vinayakrao Gulvelkar
2. Nalini Kondopant GulvelkarApplicants

VERSUS

The State of Maharashtra & anotherRespondents

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Mr. Muhammed Asim, Advocate holding for Mr. Sayyed Tauseef
Yaseen, Advocate for Applicants.

Mrs. M. L. Sangeet, APP for the State.

CORAM : ADVAIT M. SETHNA, J.

DATE : 23 JUNE, 2025.

P. C. :

1. Heard learned Advocates for the parties.
2. The Applicants have filed this Anticipatory Bail Application as they apprehend arrest. The proceedings relate to C.R. No. 320/2024, registered by Shivaji Nagar Police Station, Dist. Beed for the offences punishable under Sections 318(4), 336(2), 336(3), 62, 3(5) of the Bharatiya Nyaya Sanhita (for short '**BNS**'). The said First Information Report (for short '**FIR**') was lodged on 9 July 2024 at 18.32 hours in respect of the alleged incident recorded between 28 June 2024 to 1 July 2024.

CASE IN THE FIR :

3. The Informant is one Sharad Dattoba Gayake, aged 60 years, resident of Beed. He has purchased a Plot No. 37 out of Survey No. 62 Taraf Giram Mohalla, Pimpargavhan Road, Beed from one Suresh Raosaheb Gayake, resident of Soudana, Tq. & Dist. Beed for consideration of Rs. 3,70,000/- on 15 September 2015. The plot is 40 ft in length on South-North, 40 ft on western side and width is 36 ft, having total area of 1440 sq. ft. On western side of the plot there is Plot No. 36 owned by the Informant. On the southern side, there is Plot No. 38 and on the northern side there is Pimpargavhan road. Since the date of the sale-deed the said plot is mutated in the name of the Informant in the revenue records. The Applicants/accused in furtherance of common intention to grab the Informant's plot, prepared forged documents showing the boundaries of their plot as the boundary of Informant's Plot No. 37 and tendered the sale-deed for registration with such details on 1 July 2024 at about 1.30 pm. The sale-deed was executed in favour of one Sk. Ejaj Sk. Kaleem, resident of Lota Karanja, Chhatrapati Sambhajanagar. The Informant came to know about it through his relative one Ganesh Kharat. Thereafter he immediately went to the office of Sub-Registrar Class II on Nagar road, Beed and objected to the

registration of the sale-deed, pursuant to which the registration of the sale-deed was stopped. In such facts and circumstances, on 9 July 2024, the Informant lodged the said FIR reporting about the said incident.

SUBMISSIONS :

4. The learned Advocate for the Applicants would submit that the Applicant No. 1 is aged 90 and the Applicant No. 2 is aged 75. The alleged transaction involves a civil dispute. There are civil proceedings pending in respect of the alleged transaction. He would submit from the revenue records annexed to the Application (at Page No. 36) that Applicant No. 1 is the owner of the plot of land bearing Survey No. 59. He would not deny that such revenue entries are under challenge before the Superintendent of Land Records, Beed. According to him, the date of the alleged incident is from 28 June 2024 upto 1 July 2024 whereas the FIR was lodged on 9 July 2024. There is considerable delay in filing such FIR which is not explained. He would then submit that there is no intention to defraud as far as the present Applicants are concerned. At the highest, there could be some irregularity in the sale-deed. According to him, the Applicants have no criminal antecedent. As the dispute involves the said sale-

deed, the civil nature of the matter cannot be overlooked and criminal colour is sought to be given to this transaction which is predominantly of civil nature. He would submit that the sale-deed was never acted upon and was never executed. No custodial interrogation of the Applicants, in such facts, is warranted. In such circumstances, he would submit that the Anticipatory Bail Application ought to be allowed.

5. On the other hand, learned APP would vehemently oppose the Application. She would submit that this couple though old in age have adopted this *modus operandi* to cheat and defraud people particularly the Informant in the given facts and circumstances. She would submit that the registered sale-deed dated 28 June 2024 is forged and fabricated and contains wrong and incorrect details. Had such sale-deed been acted upon, in that even the Informant would have been defrauded. She would submit that in such facts and circumstances, custodial interrogation of the Applicants is warranted as the *modus operandi* needs to be unearthed and thorough investigation would be necessary. She would accordingly submit that the Application be rejected.

FINDINGS :

6. Heard learned Advocates for the parties and with their assistance perused the record. From a bare perusal of the FIR, it is evident that the alleged forged sale-deed dated 28 June 2024 was never executed and/or acted upon. In other words, delivery of the subject property has not taken place as stipulated under Section 318(4). As the said sale-deed was not executed and/or acted upon for such reasons, prima facie, Section 336(3) which deals with forgery in relation to a document which shall be used for cheating also may not be attracted, at this stage. As far as other sections are concerned, most of them are non-cognizable and bailable qua the Applicants.

7. It is true that the Applicants also owe a piece and parcel of the land bearing Survey No. 59 which is not controverted. This fact is also borne out from the revenue entries which are under challenge before the Superintendent of Land Records. In such factual complexion, one cannot deny at this prima facie stage that the transaction would entail civil consequences. It is not disputed that the Applicants are in the evening of their lives. They do not have any

criminal antecedents. The learned Advocate for the Applicants submits that the Applicants are ready and willing to extend all possible co-operation in the on going investigation. In my view, considering the facts and circumstances holistically, a prima facie case of anticipatory bail is made out. Though investigation is the right of the prosecution, custodial interrogation in each and every cannot be the norm. This is one of such case where custodial interrogation is not warranted. In my view, the following order would meet the ends of justice :-

ORDER

(i) In the event of arrest of the applicants Kondopant Vinaykarao Gulvelkar and Nalini Kondopant Gulvelkar, in connection with C.R. No. 320/2024, registered with Shivajinagar Police Station, Dist. Beed, for the offences punishable under Sections 318(4), 336(2), 336(3), 62, 3(5) of BNS, the applicants are directed to be released on bail on furnishing PR bond in the sum of Rs. 20,000/- (Rupees Twenty Thousand Only) each with one solvent surety in the like amount.

(ii) The applicants shall attend the concerned Police Station on every Monday at 11.30 am. They are further directed to co-operate the investigation.

(iii) The applicants shall furnish details of residential address and other contact details such as the mobile number etc. to the concerned police station. If there is any change in the contact details, the same shall be immediately informed to the concerned police station.

(iv) The applicants shall not leave the jurisdiction of the Court without prior permission of the Court, until further orders.

(v) They shall not contact and/or influence the witness/es and/or tamper with the evidence in any manner whatsoever.

7. The Application is allowed in above terms.

8. Needless to mention that the above observations are only for the purpose of adjudication of this Anticipatory Bail Application.

(ADVAIT M. SETHNA)
Judge

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