IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.101 OF 2025

Jayantilal Javherchand Marwadi @ Jain … Applicant
Vs.
State of Maharashtra … Respondent

Mr. Shantanu Kadam i/b. Mr. Gaurav Parkar for Applicant.
Mr. V. N. Sagare, APP for Respondent-State.
Mr. Sohail Ahmed i/b. Mr. Rajendra Rathod for Intervenor / Original Complainant.
Ms. Sunita Athane, API, Dadar Coastal Road Police Station.

CORAM : MANISH PITALE, J.
DATE : JANUARY 17, 2025

P.C. :

. Heard Mr. Kadam, learned counsel for the applicant, Mr. Sagare, learned APP for the respondent-State and Mr. Ahmed, learned counsel having instructions to appear on behalf of the first informant.

2. The applicant is apprehending arrest in connection with FIR No.0081 of 2024 dated 14.10.2024 registered with Dadar Coastal Police Station, District - Raigad, for offences under Sections 420, 465, 466, 467, 468, 471 and 120-B of the Indian Penal Code, 1860.

3. In this FIR, there are five accused persons and it is alleged that the applicant is the main accused person as he is the beneficiary of the alleged criminal activity undertaken by the accused persons. It is to be noted that the individual shown at Sr. No.4 in the array of accused in the FIR is a minor person, while all the other accused persons have been already granted anticipatory bail by this Court.

4. The allegation of the first informant is that, the accused persons

illegally and fraudulently obtained mutation in the revenue record pertaining to a particular property, wherein the rightful owner was the father of the informant. It is alleged that by playing fraud upon the authorities, the accused persons obtained an heirship certificate.

5. The learned counsel for the applicant, apart from claiming parity with co-accused persons, who were granted anticipatory bail by orders dated 11.11.2024 and 18.12.2024 passed in Anticipatory Bail Application Nos.2997 of 2024 and 3438 of 2024 respectively, submits that in the facts and circumstances of the present case, the applicant can demonstrate a *prima facie* case in his favour. In that regard, attention of this Court is invited to exhibit-B i.e. the heirship certificate and an order dated 18.07.2022 at page 50 of the application, showing that an application filed by the first informant challenging the heirship certificate was itself dismissed for want of prosecution. It is alleged that the aforementioned documents show that the first informant was very much aware about the issuance of the legal heirship certificate at least in the year 2018 itself and yet, the FIR has been registered after about six years in the year 2024. It is further submitted that the applicant had co-operated with the investigation when preliminary enquiry was conducted before registration of the FIR and even now, the applicant is ready to co-operate with the investigation, and therefore, this Court may consider allowing the application.

6. On the other hand, Mr. Sagare, learned APP submits that the material on record does indicate a strong *prima facie* case against the applicant, who can be said to be the main beneficiary of the fraud committed in the present case, which led to issuance of the said legal heirship certificate. It is submitted that after registration of the FIR, the applicant has remained absconding and therefore, this Court may not show any indulgence.

7. The learned counsel having instructions to appear on behalf of the first informant also opposed the prayer made in the present application and he supported the contentions raised by the learned APP.

8. This Court has perused the material on record, including the contents of the orders passed by this Court in favour of the co-accused persons. Although it is strongly urged by the learned APP that the applicant, being the main beneficiary of the legal heirship certificate fraudulently obtained in the present case, the material on record shows that the applicant has indeed made out a *prima facie* case in his favour. It is a matter of record that the legal heirship certificate, in the present case, was issued as far back as on 04.05.2016. Till date, the said heirship certificate has not been set aside by any Competent Court or authority. The only proceeding initiated to challenge the said legal heirship certificate was by the first informant himself and that too, way back in the year 2018. This clearly shows that the first informant was aware about existence of the said legal heirship certificate at least from the year 2018 onwards.

9. In fact, the aforesaid order dated 18.07.2022 passed by the Competent Court records that the application was filed by the first informant, challenging the heirship certificate as far back as on 02.04.2018. It is significant that the said application, itself, was dismissed for want of prosecution on 18.07.2022 and the first informant took no steps to challenge the said order or to seek restoration of the application filed by him to challenge the legal heirship certificate.

10. It is after about six years that the first informant chose to approach the police for registration of the FIR. *Prima facie*, this shows delay on the part of the informant in approaching the police. The learned APP took instructions and made a statement that the applicant had indeed appeared before the concerned officer when preliminary enquiry was

conducted before registration of the FIR. This does indicate that the applicant was co-operating with the enquiry when the first informant raised grievance before the police.

11. This Court is of the opinion that as long as the applicant is ready to co-operate with the investigation, he can be granted relief of anticipatory bail as was granted to co-accused persons by the aforementioned orders passed in their favour.

12. In view of the above, the application is allowed in the following terms:-

A. In the event the applicant is arrested in connection with FIR No.0081 of 2024 dated 14.10.2024 registered with Dadar Coastal Police Station, District - Raigad, he shall be released on bail on furnishing PR Bond of Rs.25,000/- with one or two sureties in the like amount;

B. The applicant shall remain present before the investigating officer on 20.01.2025 between 10:00 a.m. and 12 noon and thereafter, as and when called by the investigating officer. He shall co-operate with the investigation;

C. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

13. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

14. The anticipatory bail application is disposed of.

(MANISH PITALE, J.)

Minal Parab