

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1358 OF 2025

Kailas Balchandra Barne
Versus

...Applicant

The State of Maharashtra

...Respondent

AND

ANTICIPATORY BAIL APPLICATION NO.1384 OF 2025

Balkrishna Hanumant Padale
Versus

...Applicant

The State of Maharashtra

...Respondent

Mr. Subhash Jha a/w. Mr. Sameer Vaidya, Mr. Siddharth Jha, Mr. Ashish Saxsena, Mr. Chetan Gogawale i/b Law Global for the Applicants.

Mr. T. G. Khan, APP for the Respondent/State in ABA 1358/2025.

Mr. S. H. Yadav, APP for the Respondent/State in ABA 1384/2025.

Mr. Sandip Khedkar, PSI, Bundgarden Police Station, Pune.

CORAM : ADVAIT M. SETHNA, J.

**DATE : 16 MAY 2025
(VACATION COURT)**

P.C.:

1. Parties agree that as similar issues arise in both the applications, the following common order can be passed.
2. These applications are filed by the present applicants apprehending their arrest.
3. Mr. Jha learned counsel for the applicants would draw the Court's attention to the C.R. No.138 dated 20 May 2024 under Sections 471, 469, 468, 467 and 420 of the Indian Penal Code ("IPC") with

Bundgarden Police Station, Pune.

4. The applicant (ABA No.1358/2025) is the brother-in-law of the first informant. Mr. Jha would submit that the controversy in the present proceedings essentially revolves around a Sale Deed dated 27 June 2007 executed between the present applicants and the brother of the first informant (who is the Power of Attorney Holder of the First Informant, i.e., sister.) The allegations in the FIR as regards the Sale Deed would pertain to the forged seal/stamp of the Notary Public as affixed on this Sale Deed. As the allegations pertain to the Notary Public he moved Anticipatory Bail Application No.3288 of 2024 before the Sessions Court which was allowed by an order dated 20 June 2024 by that Court.

5. Mr. Jha would next submit that as far as the subject property is concerned there are civil proceedings pending. A Civil Suit No.1903 of 2024 has been filed by the first informant before the Civil Judge Senior Division, Pune which is pending and the next date for such proceedings is 17 June 2025. He would submit that certain declaratory reliefs have been sought in the said suit which would concern the subject property and may concern/touch upon the said Sale Deed. Mr. Jha would submit that on the very face of it these proceedings are civil in nature sought to be given a criminal colour. He would further submit that a notice under Section 35 (3) of the Bharatiya Nagrik Suraksha Sanhita, 2023 (*for short*, BNNS) was issued to the applicant on 30 July 2024. The applicant promptly pursuant to such notice had attended the Police

Station and appeared before the Investigating Officer. In the said facts and circumstances, Mr. Jha would pray for some ad-interim protection at this stage in favour of the applicant.

6. Mr. Khan and Mr Yadav, learned APP in both the applications would strongly oppose the applications. They would refer to the FIR to submit that the allegations are serious, investigation are underway. With regard to the Sale Deed, the submission is that the stamp is dated 20 June 2027 whereas it was procured in 2013. Thus they would submit that such document is tainted and appears to be forged/fabricated.

7. I have heard learned counsel for the parties. In my prima facie view there is substance in the submissions of Mr. Jha at this stage of the proceedings. This is for the reasons more than one. Firstly, the concerned Notary Public whose stamp and seal are alleged to be fabricated as affixed on the Sale Deed dated 27 June 2007 has been granted Anticipatory Bail on 20 June 2024. This position is not disputed. Further there are pending civil proceedings before the Civil Court in Pune which concerned the subject property. This fact is also not disputed. Importantly, Mr. Jha would make a statement on instructions that the Sale Deed dated 27 June 2007 around which the controversy in the present proceedings revolve, will not be acted upon now or in future in any proceedings or in any manner whatsoever. He would also submit on instructions that such Sale Deed has been cancelled. In any event his statement on instructions that Sale Deed will not be acted upon is accepted as an undertaking to the Court.

8. Learned APP's fairly would not oppose this stand taken by Mr. Jha. Mr. Khan and Mr. Yadav would submit that the right and interest of the complainant/ first informant seems to be involved and/or affected in these proceedings. The complainant therefore be arrayed as the party respondent. In the interest of justice considering the peculiar facts and circumstances of the present case, I am inclined to accept the contentions of the learned APP's and direct the applicants that the first informant i.e. the complainant be arrayed as the party respondent to both the applications by making suitable amendments.

9. Considering the above I pass the following common *ad-interim* order:-

(i) In the event of arrest of the applicants during the pendency of this proceedings, they would be released on bail on furnishing PR bond in the sum of Rs.50,000/- each with one or more sureties in the like amount;

(ii) The applicants shall co-operate with the investigation and attend the Bundgarden Police Station on Monday of every week at 11.30 a.m. until further orders are passed on this application;

(iii) The applicants shall furnish details of residential address and other contact details such as mobile number etc. to the concerned police station. If there is any change in the contact details, the same will 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, which shall operate subject to further orders of the Court.

10. The amendment, as noted above, be carried out in both the applications before the returnable date. The amended copy of the applicationa be served to the parties including the added respondent, who is at liberty to file a reply to these applications, if she so desires and serve it to the parties in advance on or before the returnable date.

11. The *ad-interim* orders, as above, shall continue to operate till the adjourned date of hearing.

12. It is made clear that the observations in the order are prima facie and not to be construed as any expression on the merits of the proceedings/rival contentions.

13. List the proceedings for further consideration on **30 June 2025** before the regular Court.

14. All concerned to act on an authenticated copy of this order.

[ADVAIT M. SETHNA, J.]