

MHBU010011632023



IN THE COURT OF ADDITIONAL SESSIONS JUDGE, BULDANA

SPECIAL CASE NO.59 OF 2023

- 1] Tulshiram Nivrutti Suradkar,
Age-76 years, Occ.Agri,
 - 2] Kailas Vishnu Suradkar,
Age-35 years, Occ.Agri.
 - 3] Pandharinath Sahebrao Suradkar,
Age-41 years, Occ.Agri,
All R/o Berala, Tq.Chikhli,Dist.Buldana,
 - 4] Pravin Ashok Pararao,
Age-36 years, Occ.Agri,
R/o Sambhajinagar, Chikhli,
Tq.Chikhli, Dist.Buldana,
 - 5] Shrikrushna Dalsingh Parihar,
Age-37 years, Occ.Agri,
R/o Ancharwadi,Chikhli,
Dist.Buldana,
 - 6] Samadhan Santoshrao Gadekar,
Age-47 years, Occ.Agri,
R/o Muradpur, Post.Bharosa,
Tq.Chikhli, Dist.Buldana
- ... Applicants

..Versus..

State of Maharashtra
Through D.G.PBuldana,
Through PSO Chikhli

... Non-applicant

ORDER BELOW EXH.3

(Passed on this 1st day of December 2023)

- 1] Instant bail application has been filed under Section 439

of Criminal Procedure Code for grant of regular bail inter-alia contending that Police Station Officer, Chikhli has registered Crime bearing No.215/2022 relating to the offences punishable under Sections 420, 467, 468, 471, 120B, 506 of IPC r/w Sections 3(1)(f), 3(1)(q), 3(1)(r) 3(2)(va) of S.C.S.T.(Prevention of Atrocities) Act, 1989.

2] In brief, prosecution case is that that one Bhaurao Kondu Jadhav was the owner of field Gat No.197 area ad-measuring 1 Hectare 93 Are situated at mouje Berala, Tq.Chikhli, Dist.Buldana. Said Bhaurao died on 13.4.2021. It is alleged by Dilip Bhaurao Jadhav in his report dated 2.3.2022 that applicant No.1 Tulshiram Nivrutti Suradkar with the help of remaining applicants have forged a Will in respect of above-mentioned property by showing that said property was bequeathed by deceased Bhaurao in favour of applicant No.1 Tulshiram. According to said first informant, Bhaurao never executed alleged Will-deed in favour of Tulshiram. Because at that relevant time, Bhaurao was suffering from Cancer and was admitted in the hospital. Signature of testator shown in alleged Will-deed is forged one. As per allegation made by first informant Dilip Bhaurao Jadhav, in order to grab the above-mentioned field property, forged alleged Will-deed was prepared. On the basis of these allegations, lastly it is prayed by first informant for taking legal action against all the applicants. In consequence of lodging of report to the police station, Chikhli, crime was registered against applicants in above-stated manner.

3] According to applicants, all the allegations made against

them are false one. Will-deed in question is genuine one and same was executed by Bhaurao Jadhav in favour of applicant No.1. They did not commit the offence of creating false document by making forged signature of Bhaurao Jadhav. They have already been granted anticipatory bail in the said crime. Charge-sheet has been already filed in the Court. But before filing charge-sheet, Investigating Officer has added Section 506 of IPC against them for which they have not sought any relief while seeking anticipatory bail.

4] According to applicants, they have not committed any alleged offence. They have stoutly denied all the allegations made against them. They are claiming to be innocent one. They are falsely implicated in the matter. In such situation, he is ready to abide the conditions, in case regular bail is granted to them.

5] Learned APP Smt.Saoji-Deshpande has filed say on the application (Exh.3) itself and submitted that Section 506 of IPC is non-cognizable and bailable one and prayed for passing suitable order in the interest of justice.

6] I have heard learned Counsel Shri Bhansali for applicants and learned APP Smt.Saoji-Deshpande for the State.

7] On perusal of case papers, it will find that admittedly, crime has been registered against applicants relating to above-mentioned offences to Chikhli police station. It is alleged that applicant No.1 has

created forged Will-deed in order to grab the field property of first informant Dilip Jadhav. Applicants have strongly refuted such allegation by contending that disputed Will-deed is genuine one. The learned Counsel of applicants have filed one copy of order passed by learned Civil Judge, Jr.Dn.Chikhli on 18.10.2021 in order to show that injunction application was filed by first informant Dilip Jadhav relating to the same field property and thereby requested to the concerned Court to restrain applicant No.1 Tulshiram Nivrutti Suradkar from disturbing the possession of suit property in previous bail application proceeding. In that matter, first informant was claiming that legal heirs of deceased Bhaurao Jadhav were in possession of above-mentioned field property. Said temporary injunction application was contested by present applicant Tulshiram Nivrutti Suradkar. While deciding said injunction application, learned Civil Court came to the conclusion that defendant i.e. applicant Tulshiram Nivrutti Suradkar was found in possession of suit property. Consequently, temporary injunction application filed by legal heirs of deceased Bhaurao Jadhav was rejected by learned Civil Judge, Jr.Dn., Chikhli. In view of this, it appears that on the day of institution of that suit, present applicant No.1 Tulshiram was in possession of suit property. Temporary injunction order was passed on 18.10.2021. First informant appears to have lodged report on 2.3.2022 i.e. subsequent to the rejection of temporary injunction application.

8] Furthermore, it appears that Will-deed in question was not sent to the handwriting expert for being ascertained the fact that whether signature appearing as a testator on the Will-deed is forged one or

genuine one. That apart, dispute between parties relating to field property appears to be civil in nature and civil dispute is pending before Civil Court. Therefore, nature of Will-deed, whether it is forged or genuine can be determined and decided only on merit in the Civil or Criminal Court. In the absence of report of handwriting expert showing that signature of testator appearing in Will-deed is forged one and said forgery was committed by applicant No.1, at present, it cannot be inferred that there is sufficient material against applicants in respect of committing forgery of alleged Will-deed.

9] In addition to above, applicants appear to be resident of village Berala, Tq.Chikhli, Dist.Buldana. Therefore, there are least chances of their absconding. Main allegation relating to committing forgery has been made by first informant against applicant Tulshiram. But at present stage, findings recorded by Civil Court appears to be in favour of applicant Tulshiram on the point that present applicant Tulshiram was found in possession of suit property even prior to lodging of the report.

10] No doubt, crime appears to have been registered against applicants relating to the offence punishable under Sections 3(1)(f), 3(2)(va) of S.C.S.T.(Prevention of Atrocities) Act, FIR does not disclose that merely first informant is belonging to S.C.or S.T. community, applicants had committed above-mentioned offences. In the present set of facts and circumstances, according to me, bar under Section 18 of S.C.S.T. (Prevention of Atrocities) Act is not attracted in respect of entertaining anticipatory bail application.

11] Moreover, all these applicants have already been granted relief in terms of anticipatory bail. But, later on, Investigating Officer has added Section 506 of IPC in the present crime against applicants which is non-cognizable and bailable one. At this juncture, investigation has been completed and charge-sheet has been filed before this Court. Having considered the nature of offence, nothing is used to be recovered from applicants. Prosecution could not show that antecedent of applicants is not clear. Applicants are granted anticipatory bail. Prosecution has not filed any of the document on record to show that applicants have breach any of the conditions imposed on them while granting anticipatory bail. In such circumstance, there is no legal ground to reject the regular bail application. In the result, following order is passed.

ORDER

- 1] Bail application (Exh.3) is allowed.
- 2] Applicant Nos.1) Tulshiram Nivrutti Suradkar, 2)Kailas Vishnu Suradkar, 3)Pandharinath Sahebrao Suradkar, 4)Pravin Ashok Pararao, 5)Shrikrushna Dalsingh Parihar and 6) Samadhan Santoshrao Gadekar be released on execution of P.R. Bond of Rs.15,000/- each with one surety each in like amount, in Crime No. 215/2022 registered with Police Station, Chikhli relating to the offences punishable under Sections 420, 467, 468, 471,120B, 506 of IPC r/w Sections 3(1)(f), 3(1)(q), 3(1)(r)

3(2)(va) of S.C.S.T.(Prevention of Atrocities) Act,1989 on following conditions;

- A] Applicants shall not misuse the bail.
- B] They shall not create any hurdle in the progress of trial.

Sd/-

Buldana
Date:1.12.2023

(R.N.Mehare)
Addl.Sessions Judge,
Buldana