


MHNS070006322026 	<u>Criminal Bail Application No. 251/2026</u> Kamil Akhtar Siddique Hasan & ors. Vs. State Through Chavni Police Station
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ORDER BELOW EXH. 01

This application is filed under section 482 of BNS by applicants/accused No.1 and 2 with respect to crime No. 43/2026 registered with Chavni police station for the offence punishable under Sections 318, 318(4), 61(2), 336(1), 336(2), 336(3), 3(5) of BNS.

Arguments:-

2. Advocate Shri. Wasif for applicants submitted that the transaction is of civil nature, already civil suit is pending between parties, there is delay in lodging complaint, the offence is punishable upto 7 years and so protection be granted.

3. Whereas, advocate Rakavat for first informant submitted that it is admitted that fact that General Power of Attorney is executed by first informant and his brothers in favour of accused No.1. However, the said power of attorney was cancelled by them by issuing notice to accused No.1 as well as by publishing notice in the newspaper. The first informant and his brothers also instituted suit for declaration and cancellation of said power of attorney. Despite these facts the accused No.1 sold the said property in favour of wife of his brother on the basis of cancelled power of attorney. So, the first informant filed complaint before 1d Additional CJM, Malegaon and then this crime is registered. For the purpose of

recovery of power of attorney and sale deed custodial interrogation is necessary.

4. APP Shri. Phulpagare submitted that for recovery of sale deed and power of attorney custodial interrogation is necessary.

FIR :-

5. The some and sybstance of allegations in the complaint/FIR lodged by first informant are that the first informant and his 2 brothers are owners of property bearing Survey No. 125/2, Plot No. 28 of Malegaon, Municipal corporation. On 09/01/2024 the first informant and his brothers executed the register power of attorney in favour of applicant No.1 thereby delegated him to power of sale property. Thereafter, the first informant and his brothers revoked the power delegated to applicant No.1 by executing power of attorney by issuing notice through their advocate on 22/01/2024. They also published notice to that effect in the newspaper. They also instituted, civil suit for declaration that the power of attorney has already revoked and said declaration to that effect. Still the applicant No.1 by misusing already revoked power of attorney thereby executed sale deed of said property in possession of applicant No.2 on 13/05/2025.

6. On the basis of said complaint crime No. 43/2026 registered with Chavni police station for the offence punishable under Sections 318, 318(4), 61(2), 336(1), 336(2), 336(3), 3(5) of BNS.

7. Perused the investigation papers as well as the paper submitted by first informant on record.

i. It is admitted fact that first informant and his 2

brothers are owners of Plot No.125/2, Plot No.28 and they delegated power to sale the said property to applicant No.1 by executing registered power of attorney dtd.09/01/2024.

ii. It appears that the first informant through his advocate issued notice dtd.22/01/2024 to applicant No.1 thereby informing him that power of attorney is revoked.

iii. Notice was also published in newspaper to that effect.

iv. Thereafter, first informant instituted civil suit against applicant No.1 for declaration that the power of attorney has been cancelled.

8. It further appears that the applicant No.1 on the basis of power of attorney dtd. 09/01/2024 transferred the said property in favour of applicant No.2 by executing registered sale deed dtd.13/05/2025.

i. On the basis of material on record prima-facie it appears that since inception there was no intention to deceive the complainant.

ii. On the contrary, it appears that the entire transaction is of civil nature and already civil suit regarding said power of attorney is pending before the civil court.

9. Therefore, custodial interrogation of applicants is not at all warranted. Hence, this court is inclined protect applicants and so following order is passed.

ORDER

1. Application is allowed in the following terms.
2. In the event of arrest of applicant **Kamil Akhtar Siddique Hasan** and **Heena Kausar Majid Akhtar** with respect to Crime No. 43/2026 registered for offence under section 318, 318(4), 61(2), 336(1), 336(2), 336(3), 3(5) of BNS in Chavni Police Station they be released on their executing P.B and S.B Rs. 25,000/- each subject to following conditions.
 - a) Applicant shall remain present before I.O as and when directed by him and shall co-operate with investigation.

Date :- 10/03/2026

(D. Y. Gaud)
Additional Sessions Judge
Malegaon