

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, NASHIK,
AT – NASHIK.

(Presided over by Mr. M. H. Shaikh)

Criminal Bail Application No.35 of 2022

CNR NO.MHNS010001082022



1. Bhajansingh Indersingh Sachdev
Age : 65 years, Occ.: Business

2. Inderjitkaur Indersingh Sachdev
Age : 62 years, Occ.: Business

R/o : Anand Road, Deolali Camp,
Nashik, Tal. & Dist. Nashik.

... Applicants.

V/S

State of Maharashtra
Through : Deolali Camp Police Station,
Nashik, Tal. & Dist. Nashik.
(F.I.R. No.110/2021)

... Respondent/State.

Appearance : Ld. Advocate Shri. Shaikh Salim Abdul Latif for Applicants.
Ld. A.P.P. Shri. Sachin Gorwadkar for Respondent/State.

ORDER BELOW EXH. No.1
(Delivered on 16th February, 2022)

1. This is an application filed under Section 438 of Criminal Procedure Code for grant of pre-arrest bail in F.I.R. No.110/2021 registered with the respondent Deolali Camp Police Station for an offence punishable under Sections 420, 465, 466, 467 & 468 & 471 r/w 34 of the Indian Penal Code.

2. Perusal of the F.I.R. reflects that Crime was registered on the direction given by the Ld. J.M.F.C., Nashik-Road in Criminal M.A. No.20 of

2021. It is the case of prosecution that, the applicants are husband and wife. They had prepared and made fraudulent signatures on an assurance-deed, dated 11.02.2012. An assurance-deed is said to be executed by the complainant in favour of her husband. Complainant is the mother of applicant No.1. The applicants have used the copy of the said assurance-deed in the Civil Suits pending between the parties and using the same for their benefit.

3. It is the case of the applicants that, they are falsely implicated in this case. At the request of the parents of applicant No.1, they have put their signatures on the assurance-deed as identifier and witness respectively. Custodial interrogation of the applicants is not necessary. The applicants are ready to abide by the terms and conditions, which will be imposed by the Court. Therefore, prayed to allow the application.

4. Respondent filed their say vide Exh.6 and strongly objected. The grounds for rejection for application are that, the assurance-deed is to be seized from the possession of the applicants, their natural hand-writing and signatures are to be taken by way of a panchanama. Investigation is at a primary stage. Custodial interrogation of the applicants with the Police is necessary. Therefore, prayed to reject the application.

5. In this matter, complainant appeared as an intervener and she was permitted to assist the Ld. A.P.P. and file written notes of arguments. Accordingly, she has file written notes of arguments vide Exh.9.

6. Heard Ld. Advocate for applicants, Ld. A.P.P. for State and Ld. Advocate for the complainant/intervener.

7. Upon hearing and going through the material placed on record, what can be gathered is that, the father of the applicant No.1 had a business and he had invested the amount in an immovable properties at Nashik. The father of the applicant No.1 passed away and it seems that the brother of applicant No.1 got executed a Will of his father in his favour. Thereafter, it seems that the dispute arose between the applicant No.1 and his younger brother. The complainant, who is the mother of applicant No.1 is residing alongwith the younger brother of the applicant No.1. The applicant No.1 has filed a suit for partition and also some other suits. There are non-cognizable offence (N.C.) registered with the Police. In the Civil Suit, the applicant No.1 had filed a copy of the assurance-deed, which as per the complainant is prepared by the applicants and they had fraudulently signed on it. The signatures are verified from the hand-writing expert and he opined that the signatures are not of the complainant and her husband.

8. Now, in this back-drop this Court is called upon to see as to whether custodial interrogation of the applicant is necessary to the Police. The applicants have admitted their signatures on the assurance-deed to be as an identifier and the witness respectively. The applicant No.1 had filed the copy of the assurance-deed in the suit pending between the parties. Therefore, what can be gathered is that the assurance-deed is in the custody of the applicants. One of the executents of the assurance-deed i.e. the mother of the applicant No.1 is denying her signature on the assurance-deed. In such a situation, this Court finds that the offence alleged by a old woman i.e. the complainant is serious in nature. The custodial interrogation of the applicants is necessary to the Police to seize the assurance-deed and also obtained their signatures and natural hand-writing. So also, Police requires their custody for further investigation, as

to who all are involved in the said Crime. Therefore, this Court finds that, the discretion of bail can not be invoke in favour of the applicants.

9. Ld. Advocate for applicants placed reliance upon, “S.P.S. Rathore v/s C.B.I. and another in Criminal Appeal No.2126 of 2010 of the Hon’ble Apex Court”. I have gone through the said authority. In this authority, Their Lordships had dealt with the aspect of evidence of expert witness and had made certain observations. This authority can not be said to the applicable to our case in hand because we are at a primary stage of investigation.

10. In the facts and circumstances of the case, this Court finds that the application fails. Hence, the order.

ORDER

Criminal Bail Application No.35 of 2022 stands rejected and disposed off accordingly.

Place : Nashik
Date : 16/02/2022

(M. H. Shaikh)
Additional Sessions Judge, Nashik.