

**ORDER BELOW EX. 01 IN CRIMINAL BAIL APPLICATION**  
**NO. 252 OF 2022**

{Smt. Shivangi Vishwanath Pethe and others Vs. The State of  
Maharashtra through Sarkarwada Police Station}

This is an application under section 438 of the Criminal Procedure Code, 1973 for grant of anticipatory bail in crime no. 44 of 2022 registered with Sarkarwada Police Station under sections 406, 420, 465, 468, 471, 120(B) of the Indian Penal Code.

02] The applicants contended that false and fabricated case is registered against them. Already, partition has taken place and the complainant received her share vide partition deed dtd. 05.01.1981. She has no right in the property sold. She has suppressed material facts from the court and filed false complaint. The dispute is of civil nature. All the necessary documents are readily available with the revenue authority. Their custodial interrogation is not required. They have deep roots in the society. The applicant no. 1 is running Cancer hospital. They are ready to cooperate with the investigation. They are ready to abide by any conditions imposed by the court. Hence, they have prayed for grant of anticipatory bail.

03] APP filed say at Ex. 06 and I. O. filed say at Ex. 07 and further at Ex. 12. Also, the original complainant filed written objection at Ex. 13. They have stated that the offence is of serious nature. The accused nos. 1 to 7 in furtherance of their common intention knowing that the agricultural property sold is having undivided share of the complainant, conspired and prepared forged documents and used it and the accused nos. 1 to 3 without any intimation sold the said agricultural property to the accused nos. 4 to 7. The investigation is to be done. The custodial interrogation of accused nos. 1 to 7 is required to be done. The documents are to be seized from the Government offices. The original sale deed is to be

seized from the accused. Further, the original complainant has stated that she has documentary evidence to show that the property sold are her ancestral properties. Since inception, the accused have intention to deceive and misappropriate her undivided share in the properties. Her power of attorney is misused by the accused nos. 1 to 3. The order of Tahsildar dtd. 01.10.2020 removing the name of her, is without her knowledge. Hastily, the agricultural property was sold to the accused nos. 4 to 7. The partition deed which is relied by the accused is not registered partition deed. All these facts were known and in the knowledge of the accused. Still, they defrauded the complainant, prepared false documents and committed the offence. So, they have prayed for rejection of bail.

04] Heard the learned counsel for the accused, learned APP and learned counsel for the original complainant. They have argued as per their stand taken as above. Both the parties have filed documents on record.

05] I have gone through application, say, arguments and police papers. There is strong prima-facie case against all the accused under the aforesaid sections. The alleged partition deed on which accused are relying is dtd. 05.01.1981 and is unregistered. Legally speaking, it is not partition in the eyes of law. Even after the partition, several properties were sold and the original complainant was also made party in those sale deeds. The revenue entries were not effected after the unregistered partition dtd. 05.01.1981. It appears that the partition was not acted upon and this fact is known to all the accused. Even by due diligence, the accused nos. 4 to 7 could have ascertained this fact. Prima-facie, it appears that there are several incidents and documents which shows that the properties were ancestral property of the complainant. The accused knowingly in order to grab the share of the complainant mutated and removed the name of the complainant before the Tahsildar vide his order dtd. 01.01.2020. The complainant was not knowing this

fact. The alleged power of attorney of the year 2015 was specifically given for the pending case before the Hon'ble High Court and appears to be misused by the accused. Very hastily after the order of Tahsildar dtd. 01.01.2020, the disputed property was immediately sold by accused nos. 1 to 3 to the accused nos. 4 to 7. Their appear to be common intention as well as criminal conspiracy between the accused nos. 1 to 7 to grab the share of the complainant, who is old lady of 70 years old. Considering the above facts, though the accused are reputed persons in the society and have deep roots in the society, their act does not entitle them for anticipatory bail. The offences are of serious nature, the investigation is just begin and the custodial interrogation of the accused is required. The punishment is also severe. Since inception, the accused nos. 1 to 3 have intention to grab the share of the complainant. Looking to the same, they are not entitled for anticipatory bail. The grounds raised by counsel for the accused, in such circumstances are not tenable. Hence, the following order:

**ORDER**

Application is rejected.

Date : 09.03.2022

(R. R. Rathi)  
Additional Sessions Judge-5,  
Nashik.