

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.395 OF 2015

Shri Nitin Girish Babar ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.A.P. Mundargi, Sr.Advocate i/b Vikas Kolekar for the Applicant
Mr.D.P. Adsule, APP, for Respondent – State
Mr.Vilas Bhosale, API, Shahupuri police station, Kolhapur – present

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **APRIL 27, 2015**

P.C.:

1. The application is moved for pre-arrest bail under section 438 of the Criminal Procedure Code. The applicant/accused was given one contract by the Public Works Department, Kolhapur. However, the applicant/accused was not holding a valid licence of a contractor at the relevant time. The contract obtained by him earlier had expired and he did not renew it. The documents he submitted to get the contract were found forged and bogus and therefore one Vijaykumar Ganpatrao Patil from the Public Works Department gave a complaint to Shahupuri police station, Kolhapur, pursuant to which the offence was registered at C.R. No.372 of 2014 under sections 420, 467, 468, 470, 471 and 472 of the Indian Penal Code.

2. The learned Senior Counsel for the applicant/accused has submitted that though the applicant/accused has submitted the documents and his licence was not renewed, at that time, he was not aware of it but he has not manufactured the documents. He has neither manufactured the documents nor forged any documents. It is submitted that the applicant/accused has given this work of submission of documents and alongwith the proposal to one middleman, namely, one Mr.Gyaneshwar Bunage. The applicant/accused was not aware of the documents which Mr.Bunage has submitted to obtain the work. He is innocent. Though he is a beneficiary of the contract, he was not aware and the work was done in the year 2008 and the complaint was registered in 2014.

3. The learned Prosecutor while opposing the bail application produced the papers of the investigation. He relied on the statement of the witnesses and he submitted that all forged documents are seized by the police. He further submitted that the co-accused Gyaneshwar Bunage could not be arrested by the police as he was granted bail by the Court on the same day when he immediately filed an application.

4. On perusal of the papers of the investigation and the complaint, it is clear that the offence of forgery and fraud has taken place. Undoubtedly, the applicant/accused is a beneficiary and normally under such

circumstances, no anticipatory bail can be granted. However, it appears from the statement of one Katkar that the applicant/accused has contacted Shri Gyaneshwar Bunage and Shri Bunage has acted as a middleman in this matter. In such a matter, custodial interrogation of the accused is necessary. However, Shri Bunage was given bail on the same day and as per the submissions of the learned Prosecutor, the said order is challenged by the State. It is submitted that Shri Bunage is not available and not cooperating with the police in the investigation.

5. Under such circumstances, I confirm the interim bail granted to the applicant/accused subject to the outcome of the revision application of the State. If, during the course of investigation, the Investigating Officer finds that it is not Bunage but the present applicant/accused who has committed fraud and has forged the documents, the prosecution is granted liberty to move the application for cancellation of bail of this applicant. The interim bail is confirmed on the same conditions, however, the applicant/accused is directed to attend the concerned police station on every Wednesday and every Friday between 11am to 3pm for one month from today.

6. Anticipatory Bail Application stands disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)