

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.769 OF 2015
WITH
CRIMINAL APPLICATION NO.495 OF 2015

Haresh Motiram Aswani	... Applicant
v/s.	
The State of Maharashtra	... Respondent

Mr. Shirish Gupte, Senior Advocate i/b. Mr. Aniket Nikam, for the Applicant.

Mr. Arfan Sait, APP for Respondent – State.

Mr. Prakash Naik i/b. Mr. Pawan Mali, for the Intervener in Intervention Application No. 495 of 2015.

IO. Mr. S.M. Nikam (PSI), Pimpri police station, Pune present.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: JULY 17, 2015

P.C.:

. The application is moved for pre arrest bail as the applicant/accused is facing charges for the offences punishable under Sections 465, 467, 468 and 471 of the Indian Penal Code in C.R. No. 218 of 2015 registered with Pimpri police station, Pune.

2. One Tuljo Lakhani who is working as C.E.O. in the Seva Vikas Co-Op. Bank Limited, Pimpri, Pune gave information to the

police on 3rd April, 2015 that the applicant/accused Haresh Motiram Aswani who was the Chairman of Seva Vikas Co-Op. Bank Limited, Pimpri for some period. The complainant has applied for the election of the post of Director. As per the amended laws, graduation is one of the eligibility/criteria for the post of Director of the said bank's election. The applicant/accused has submitted his provisional degree certificate issued by the Periyar University, Salem, Tamil Nadu dated 17th October, 2011 that he is holding a B.Com degree and passed in first class. The election officer found that it may be a forged certificate as the certificate was issued in the name of Haresh Motiram Khatri. Therefore, an inquiry was held and after inquiry and verification of his provisional degree certificate from Periyar University, it was communicated by the said University that the said certificate was not issued in favour of Harish Motiram Aswani or Haresh Motiram Khatri. Therefore, a criminal case was registered against the applicant/accused for forgery and cheating.

3. The learned counsel for the applicant/accused relying on the documents has submitted that he had received this certificate from one Kiran Scindia of Success Institute, Pune as he had appeared

for the examination through Success Institute, Pune. He submitted that the original name of the applicant/accused is Hari Motiram Khatri. However subsequently the applicant/accused got his name changed to Haresh Motiram Aswani and the name was gazetted in the year 1995. He pointed out the said gazetted entry on page 72 of the application. He further pointed out that after this criminal case, he contacted the Periyar University, Salem, Tamil Nadu for grant of a provisional certificate as he had in fact appeared for the examination of B.Com through Success Institute, Pune which was affiliated with Periyar University, Salem. He relied on the letters written by him on 9th April, 2015 to the Director, Periyar University, Salem for issuance of his provisional degree certificate. Accordingly a provisional certificate dated 13th April, 2015 was issued in the name of Hari Motiram Khatri and he is shown that he passed his graduation in second class from Periyar University, Salem.

4. The learned counsel for the applicant/accused further submitted that the police in fact have verified whether this second certificate was fake or genuine and as per their report the second certificate was in fact issued by the Periryar University. The learned

counsel relied on the pre arrest bail application filed by the co-accused Kiran Scindia before the learned Sessions Judge, Pune bearing No. 1432 of 2015. He relied on the contents of the para 5 of the said application where the co-accused has mentioned that he had collected all the documents of Haresh Aswani in the name of Hari Khatri and he has taken all those documents to Periyar University and handed over it to one person from campus of the Periyar University. That person handed over him the provisional certificate in the name of Hari Khatri. He submitted that the applicant/accused has not played any forgery.

5. The learned prosecutor opposed the application. He submitted that the applicant/accused has acted hand-in-glove with the co-accused Kiran Scindia. His custody is required for the interrogation in respect of a forged certificate. The learned counsel for the intervener has submitted that there is inconsistency in the first provisional certificate and second provisional certificate which are on record and produced by the applicant/accused. In the first provisional certificate which is forged, the applicant/accused is shown passed in first class, while in the second certificate, it is shown that he has

completed his graduation in second class. He submitted that if at all there is change in the name of the applicant in the year 1995, then how the previous name as Hari Khatri was used and the certificates issued in the name of his previous name. Therefore his custody is required for the interrogation and for the explanation in respect of the certificate.

6. Perused the first information report and the other documents produced by the learned counsel for the applicant/accused. After hearing the submissions of both the parties and after going through the documents, it appears that the applicant/accused has changed his name from Hari Khatri to Haresh Motiram Aswani. It is pointed out by the learned counsel for the applicant/accused that the earlier record of the examinations of the applicant, all the certificates are issued in his previous name as Hari Khatri. The applicant/accused also obtained the provisional degree certificate in the name of Hari Khatri. This explanation appears to be plausible. Though the pre arrest bail is rejected to the co-accused Kiran Scindia that can not be a ground because as per the case of the prosecution Kiran Scindia has collected documents from Hari Khatri of his earlier

exams and handed over those documents to one person from the campus of Periyar University. It is the case of the prosecution that Kiran Scindia is running a institute by name of Success Institute, Pune which is tied up with Periyar Univesity, Salem and the students appears through this institute for their graduation. The applicant/accused Hari Khatri @ Haresh Aswani was one of such students. It is the case of the prosecution that Kiran Scindia procured the certificate from the person of the campus of Periyar University, Salem and handed over to Hari Khatri. Thus *prima facie* the origin of the forged certificate is stopped at Kiran Scindia and therefore he was denied the pre arrest bail. Hence, I am inclined to grant pre arrest bail to the applicant/accused.

7. Hence, I grant anticipatory bail as under:

- a) In the event of arrest, the applicant/accused be enlarged on bail upon furnishing P. R. Bond in the sum of Rs. 20,000/- (Twenty Thousand) with one or two solvent surety/s in the like amount;
- b) The applicant/accused shall cooperate with the investigating officer and shall attend the concerned police

station once in a week on every Tuesday in between 4 pm to 6 pm till filing of the charge sheet.

c) The applicant/accused shall not indulge in any other criminal activity or pressurize the complainant.

8. Anticipatory bail application stands disposed of on the above terms.

9. In view of the above, intervention application No. 495 of 2015 is disposed of.

(MRS.MRIDULA BHATKAR, J.)