

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.34 OF 2016

Amol Krishnaarao Pinge ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. M.S. Mohite a/w. Ms. Vrushali Maindad i/b. Mr. Abhijeet Desai, Advocate for the Applicant.

Mrs. Rutuja Ambekar, APP for Respondent – State.

Mr. A.B. Honmane (P.S.I.), Palghar police station.

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

DATE: **26th APRIL, 2016**

P.C.:

. The application is moved for pre arrest bail as the applicant is facing charges for the offences punishable under Sections 420 and 120(B) read with 34 of the Indian Penal Code and under Section 7 of Maharashtra Prevention of Mal-Practices at University Board and Other Specified Examination Act, 1982 in C.R. No. II 09 of 2015 registered with Palghar police station. The offence is registered at the instance of one Pradeep Juvatkar on 4th October, 2015.

2. It is the case of the prosecution that the State Government/Revenue Department had conducted the examination of

recruitment of 'Clerk' at District Palghar on 4th October, 2015 between 11.00 am to 1.00 pm. It was under supervision of the Collector, District Palghar. Nearly 251 candidates appeared for the said examination and they were directed not to keep their cell phones with them. However, at the time of supervision, Ms. Vandana Save, a supervisor found that one candidate namely Raju Ambhore (accused No. 1) was using his cell phone and copied down the answers. Therefore, the supervisor objected it and seized his cell phone. On verification of the cell phone, it was found that the answers were received from cell phone number 8308988651. It was found that there was another candidate copying answers from his cell phone. Therefore, his cell phone was also seized. He also received the answers from the same mobile number 8308988651. Therefore, this fact was informed to the higher officer and on direction the information was given to the police. Pursuant to which the offence was registered.

3. It is further case of the prosecution that at the time of investigation, it was revealed that a conspiracy was hatched by accused Nos. 5, 6, 7 and 8. The applicant/accused Amol Pinge is

accused No. 7. The accused No. 5 Amar Khandarkar from Yavatmal is arrested. However, accused No. 6 who is the owner of mobile number 8308988651 is still absconding. The present applicant/accused Amol Pinge was granted interim pre arrest bail in January, 2016. During the investigation, police found that a systematic conspiracy was hatched by these accused persons. Accused Nos. 5 Amar Khandarkar, No. 6 absconding, No. 7 Amol Pinge(applicant/accused) and No. 8 Pranav Dapurkar have approached the villagers from village Babulgaon and other places of Yavatmal and Amaravati and they told them that the Government has launched a employment scheme and for that purpose their 7/12 extracts, Pan cards and identity cards were to be given, if they were interested. Many villagers gave their identity cards, 7/12 extracts, Pan cards to the accused persons. The accused Nos. 5 to 8 collected the documents and on the basis of those documents, they obtained various Sim cards. Thereafter they returned the documents to those villagers. Then accused persons contacted the persons who aspiring to appear for the said examination of recruitment of 'Clerk' at Palghar and they told them that the copy material would be provided to each of them on their cell phone. As per the case of the prosecution, Rs. 4 lacs were collected by the accused persons from

each candidate for the supply of copy material at the time of examination. The Sim cards were provided to the candidates so that with the help of those Sim cards which are connected with the cell phone used by the accused No. 5 Amar Khandarkar and No. 8 Pranav Dapurkar. On the basis of said connection with the cell phone of accused No. 5 Amar Khandarkar who actually appeared for the examination and also having connection with accused No. 8 Pranav Dopurkar, the copy material was circulated and supplied to various candidates who appeared and who have paid money to the accused persons. It is further case of the prosecution that as two candidates were caught raid handed at the time of examination and on the basis records from the cell phones which were used by them where the copy material was received, police could traced the conspiracy. It is the case of the prosecution that the applicant/accused is the one who along with accused No. 5 Amar Khandarkar were the master mind behind this entire conspiracy. Hence, this application.

4. The learned counsel for the applicant/accused submits that the police have filed charge-sheet. There is no evidence against the applicant/accused. The only evidence the prosecution is relying

against the applicant/accused is that the statement of the accused No. 5 Amar Khandarkar which is not admissible in the evidence. He further argued that the copy material was received from a particular phone number which is shown as cell phone belongs to accused No. 6 who is absconding. He further submitted that the applicant/accused is innocent. He is a Government servant and he has not committed any offence. He further submitted that police ought to have collected the evidence especially the statements of the candidates who were actually received the copy material and used the said material during the examination. Police have not done such important exercise in this matter but only suspicion has raised against the applicant/accused. Hence, the custody of the applicant/accused is not justified and he prayed that the applicant may be protected.

5. The learned prosecutor while opposing the pre arrest bail application has submitted that the police wants the custody of the applicant/accused because he is the one who along with accused No. 5 Amar Khandarkar have hatched the conspiracy. As per the information of the police, the applicant/accused has committed the similar offence in the year 2013 at Nagpur for which the offence is

not yet registered. She relied on the CDR of cell phone of accused No. 8 Pranav Dapurkar who was instrumental in transferring the copy material. The cell phone of accused No. 5 Amar Khandarkar who actually appeared in the examination is not yet seized. She pointed out that on the day of examination i.e. 4th October, 2015 there were SMS sent at 12.00 noon and at 12.55 pm by the accused persons during the examination. The applicant/accused did not hand over his cell phone to police at the time of inquiry and is not cooperating with the police. Hence, his custody is very much required to reach to the owner of the cell phone number 8308988651 which is shown as used by absconding accused No. 6.

6. Perused the first information report and the documents placed before me. The offence is committed in a very systematic manner for which a conspiracy was hatched intelligently by the accused persons. It is true that the statement of the co-accused is not admissible in evidence and the charge-sheet is filed in the present case. However, the charge-sheet is not filed against the applicant. On the basis of clues which police have obtained during the interrogation from the co-accused, the actual racket of accused persons behind this

conspiracy came into the picture. Undoubtedly, no good ground was asked for the custody of the applicant/accused but the police have collected the evidence to show that the cell phone number 8308988651 was used in transferring the copy material from this mobile to other cell phones. The police have tried to find out that on whose name the said mobile number is placed. The said Sim card is in the name of one Mr. R.M. Zanjalkar and when they searched this person, they received information that this person is the resident of Muzalgaon, Nagpur. However, the photograph and signature were fake and no such person had ever given his Sim card. So the various numbers provided at the time of obtaining Sim cards were fake. Police also found that one Mr. S.D. Raut from Babulgaon is a fake person. It is to be noted that the applicant/accused is working at Babulgaon as 'Health Servant' in State Government service. Though the police have filed charge-sheet, it appears that for want of custodial interrogation of the applicant/accused, they could not reveal the identity of absconding accused No. 6 as the said person and the name shown is fictitious. Moreover, police have received information that the applicant has done the similar type of offence in the year 2013. The offence is serious one as a Government servant is

involved in such conspiracy. The submissions of the learned counsel for the applicant/accused that police have not recorded the statements of the candidates who appeared in the examination and used the copy material cannot be appreciated as those persons may not come forward to give statements because they are the beneficiary and might have got job on the basis of this copy material. Under such circumstances, this is the fit case where the protection cannot be granted to the applicant/accused.

7. Hence, anticipatory bail application stands rejected.

8. The learned counsel for the applicant wants to challenge this order before the Hon'ble Supreme Court and therefore prays that the interim protection granted earlier to be continued for four weeks. The learned prosecutor oppose the prayer. However, the protection granted earlier to the applicant/accused to continue for **three weeks**.

(MRIDULA BHATKAR, J.)