

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1457 OF 2016

Shri Parameshwar Kinchak Belle .. Applicant/Accused
vs.
The State of Maharashtra .. Respondent

Mr. Mahadeo A. Choudhari, Advocate for the applicant.
Mr. Vinod Chate, APP, for the State.
Mr. S.C. Patil, PSI, Sadar Bazar Police Station, Solapur present.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 19th September, 2016.

P.C.

1. This is an application under Section 438 of Cr.P.C. The applicant herein is apprehending is arrest in Crime No. 249 of 2016 registered at Sadar Bazar Police Station, Solapur for the offences punishable under Sections 467, 468, 471, 420 of the Indian Penal Code. This is a subsequent application. The previous application filed by the present applicant under Section 438 of Cr.P.C. was rejected by this Court on 25.7.2016.

2. The Predecessor Hon'ble Bench had observed that the applicant had contested the election to Gram Panchayat Haglur in the category of post

reserved for Scheduled Tribe candidate. He had submitted the nomination form along with the acknowledgment to the Scheduled Caste Scrutiny Committee, Pune. The nomination was accepted and he was declared elected.

3. It appears that on 13.5.2016, Mrs. Leena Kharat lodged the FIR at the police station alleging therein that the receipt of his claim for Scheduled Tribe Caste Certificate Scrutiny Committee is a forged document.

3. It appears from the records that after rejection of the first application, the applicant had filed an application to the Collector's Office at Solapur seeking the record to show that he had actually filed an application. The applicant has placed on record a register which shows that the application was received in the course of hearing of the present application. the applicant had also filed an application for issuance of certificate. However, the Collector Office informed that the Caste Certificate under No. M.A.G/SR/789/2004 they never issued the said certificate.

4. The learned counsel for the applicant submits that the applicant

had received a notice dated 17.10.2015 from the Tahsildar, North Solapur, on the application seeking validity of caste certificate. According to the learned counsel for the applicant, it is submitted that the application seeking validity of caste certificate was filed to the Scrutiny Committee 'on line.' The copy of the same is placed on record on 17.10.2015 i.e. on the same day when he had received the notice from the Tahsildar's Office.

5. The learned APP has placed on record the answers to the questionnaire put to the Caste Certificate Scrutiny Committee. It is submitted by the Caste Scrutiny Committee that on the e-mail ID an attempt was made to submit 'on line' form. However, the said form was never received by the Authority. It would not be possible to give a copy of online form. It is submitted by the Authority that along with the form it is expected to file 'on line' the copies of the School Leaving Certificate of the applicant, ration card, domicile certificate etc.

6. The learned counsel for the applicant fairly submits upon instructions that he had never verified from the Office of the Caste Scrutiny Committee as to whether the form submitted 'on line' was accepted. In view of this, it cannot be said that the applicant has successfully filled in 'on line' form.

This is a subsequent application it deserves to be rejected seeking the same relief without there being substantial change of circumstance.

7. It is submitted that the applicant had not filed any application online seeking the validity of his certificate. The learned counsel for the applicant submits that the applicant would appear before the learned Judicial Magistrate, First Class, Solapur on 26.9.2016 and seek relief under Section 437/439 of Cr.P.C.

8. The application seeking pre-arrest bail under Section 438 of Cr.P.C. being sans merits, stands rejected. However, the learned Judge, considering the application under Section 439 of Cr.P.C., shall not be influenced by the observations hereinabove as they are restricted to an application under Section 438 of Cr.P.C. The applicant stands protected till 26.9.2016.

(SMT.SADHANA S.JADHAV, J.)