

nsc.

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.728 OF 2017

Dr.Abdul Wahab Mirza	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.S.H.Nimbalkar, for the Applicant.

Mr.Prashant Jadhav, A.P.P for the Respondent-State

API – Gaikwad, Sir J.J.Marg Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 22nd JUNE, 2017

P.C. :

1. This is the second anticipatory bail application preferred by the applicant. The first anticipatory bail application of the applicant was dismissed as withdrawn by this Court (Coram : N.W.Sambre,J.) vide order dated 19th December, 2016, passed in Criminal Anticipatory Bail Application No.2155 of 2016. Since Hon'ble Shri Justice N.W.Sambre is at Aurangabad, the present application is being heard on merits.

2. Heard learned counsel for the parties.

3. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 177 of 2016 registered with the Sir J.J.Marg Police Station, Mumbai, for the alleged offences punishable under Sections 420, 465, 468, 471 of the Indian Penal Code and under Sections 10, 11 and 12 of Maharashtra Act No.XXIII of 2001.

4. Learned Counsel for the applicant submits that there is no material to connect the applicant with the alleged offence. He submits that the prosecution is relying on the statement of the co-accused, which is clearly inadmissible. He submits that the applicant was on interim bail and has attended the concerned police station, for about 2 months. He submits, that the applicant however, could not attend the concerned police station on a couple of dates as he was unwell and that the applicant had informed the police. Learned Counsel has tendered a letter sent to the Senior Inspector, J.J.Marg Police Station, Mumbai, wherein it is stated that the applicant is suffering from a paralytic stroke and was advised hospitalization and complete bed-rest. He relied on the certificate annexed

to the said letter issued by Dr.A.Mathkar, CMO, NFSG, CGHS, Mumbai.

5. Learned APP opposes the application. He submitted that there is ample material to show the complicity of the applicant. He submitted that the applicant is the master mind behind the fraud and hence his custody is required to investigate where the forged certificates were prepared. He submits that the statements of the parents of the students shows, that monies were paid to the applicant for obtaining forged caste certificates. Learned APP has filed an affidavit of Netaram Shralhadji Maske, Police Inspector attached to Sir J.J.Marg Police Station, for opposing the application. In the said affidavit it is stated that the applicant is a habitual offender and that similar cases of forging caste certificates have been registered as against him, with several police stations. Learned APP submitted that there are about 17 similar cases registered as against the applicant. He submits that even the CBI has registered a case as against the applicant in the year 2012, under the Anti Corruption Act.

6. Perused the papers. According to the prosecution, some students had taken admission to the MBBS Course at the Grant Medical College,

Mumbai. At the time of the admission, the said students produced caste certificates and caste validity certificates to show, that they belonged to the Scheduled Tribe. The said caste certificates and caste validity certificates submitted by the students were sent by the College, to the Competent Authority for verification. During scrutiny and verification of the said certificates, the said caste certificates and caste validity certificates produced by the students were found to be forged and fabricated. Accordingly, the Competent Authority submitted a report, in respect of the forged caste certificates and caste validity certificates to the Grant Medical College, Mumbai, pursuant to which, the Administrator of Grant Medical College, Mumbai, lodged an FIR, which was registered vide C.R.No.177 of 2016, with the J.J.Marg Police Station, Mumbai, alleging offences punishable under Sections 420, 465, 468, 471 of the Indian Penal Code and under Sections 10, 11 and 12 of Maharashtra Act No.XXIII of 2001. It appears that during investigation, it was revealed that the applicant had arranged the false caste certificates and caste validity certificates for a valuable consideration, from needy students wanting to secure admission to the Grant Medical College, Mumbai in the Scheduled Tribe Reservation Category. It also appears, that the applicant had accepted huge amounts

from the students and their parents. It has also transpired in the investigation, that the applicant alongwith others tied up with one Santosh Waghmare, who helped prepare the forged caste certificates and caste validity certificates. A perusal of the statements of some of the students/parents viz. Mohammed Ali Hanif Punjani (student), Ariba Ikram Khan (student), Ikram Khan (parent), Chirag Parekh (parent) etc. recorded during investigation shows, that they had visited the applicant's house/clinic and that the applicant had told them, that he will prepare the caste certificates on receiving a certain remuneration, and that pursuant thereto, money was paid to the applicant.

7. It appears that the said certificates were prepared at Nandurbar, to show that the Caste Scrutiny Committee of Nandurbar, had issued the said caste certificates and caste validity certificates, whereas the students were residents of Mumbai. On the basis of the said caste certificates, students who are also made accused, obtained admission for the MBBS Course in the Scheduled Tribes Reserved Quota, in the Grant Medical College, and some of them also obtained scholarships from the Government, thus depriving, genuine candidates of legitimate seats. It

appears that the Scheduled Tribe Certificate Scrutiny Committee, Nandurbar Division, has submitted a report, stating therein, that no such caste certificates were issued by their office. It thus appears, that the seal, stamps on the said certificates and signature of the Member Secretary and Deputy Director (Research), serial numbers on the certificates were forged and fabricated. It appears that 10 such fabricated caste certificates were issued by the applicant with the help of other co-accused. A perusal of the statements of some of the students and parents who paid the applicant, clearly shows the complicity of the applicant and that he was the master mind behind the fraud. Hence, the custodial interrogation of the applicant is necessary to investigate from where the said bogus documents were prepared, from where the stamps were prepared/obtained, how many certificates were issued, how many more were involved in the preparation of these documents etc. There are almost 17 cases registered as against the applicant, which are similar in nature.

8. *Prima facie*, considering the material on record, the custodial interrogation of the applicant is imperative.

9. Hence, the Application for pre-arrest bail is rejected and disposed of as such.

10. It is made clear that the observations made herein are *prima facie* for deciding the aforesaid application and if an application for regular bail is filed, the same shall be considered on its own merits, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)