

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 855 OF 2017

Yasin Haji Dawood Mirza	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. E.B.Dixit i/b Adv.Sudha Dvivedi for the applicant.
Ms.Veera Shinde, APP for the State.

CORAM: A.M. BADAR, J.
DATED: 12th OCTOBER, 2017

PC:-

1. By this application under Section 438 of the Code of Criminal Procedure the applicant who is arraigned in Crime No.57 of 2017 for offences punishable under Sections 465, 467, 468, 471, 420 of the Indian Penal Code r/w Sections 10,11,12 of the Maharashtra Ordinance of 2001, is seeking pre-arrest bail.

2. Heard the learned advocate appearing for the applicant/accused. By taking me through First Information Report, the learned Advocate argued that main accused in the

Crime in question is Dr. Wahab Mirza, who is real brother of the present applicant. Despite rejection of his application for pre-arrest bail, the police could not apprehend him. Therefore, in order to pressurise absconding accused Wahab Mirza to surrender, the applicant/accused is arraigned as accused in the subject crime. In order to buttress this contention, report filed with the learned Sessions Judge while considering similar application is pressed in service.

3. The learned APP opposed the application by contending that complicity of the applicant in Crime in question is reflected from the record of investigation. In addition, the applicant by adopting similar *modus operandi* had committed another Crime and therefore, pre arrest bail cannot be granted.

4. I have carefully considered the submissions so advanced and perused the case diary. The Crime in question came to be registered on the basis of report lodged by Yuvraj

Sonawane, Chief Administrative Officer of the Grant Government Medical College, Mumbai. The first informant reported that during academic session 2011-2012, Caste validity certificate of 5 Scheduled Tribe candidates were sent for verification to Scheduled Tribe Caste Certificate Scrutiny Committee, Nandurbar. The said Committee reported to the medical college that validity certificates in respect of students named Mohd. Ali Hanif Punjani, Miss Fehmida Zinath Mohd. Kasim Khan and Miss Afreen Abdul Ajij Mukadam were never issued by the said Scrutiny Committee. That is how the offence came to be registered.

5. Father of the one of these three students gave a statement to police. He reported to police that his daughter could not secured admission in MBBS Course in the year 2010. Hence he had been to Prerana College, Navi Mumbai, where he met the present applicant. At that time, the present applicant informed him that "Tadvis" from Mohammedan religion are included in the list of Scheduled Tribes. The

father of the victim girl further reported that the applicant had demanded an amount of Rs.3 lakh from him and on payment of that amount, the present applicant had given a valid Certificate declaring his daughter to be belonging to Scheduled Tribe -'Tadvi'. Father of the victim girl reported that in this way his daughter secured admission in MBBS Course.

6. Affidavit filed by the State, opposing this application shows that Crime No.274 of 2017 is registered at Laxhmipuri police station Kolhapur. Reliance is placed on statement of Ms. Anjuman Khan recorded in that crime. The said statement shows that the present applicant after accepting the amount of Rs.2 lakh had delivered the validity certificate showing Miss Zeenath Parveen Khan to be a student belonging to the Scheduled Tribes in order to facilitate her admission in MBBS Course.

7. Prima facie, it is seen that the Crime in question is serious and it is in fact a fraud on the constitution. No case for anticipatory bail is therefore made out. The application is therefore, rejected.

(A.M. BADAR, J)