

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1617 OF 2017

Devidas @ Deva Mahadev Chaudhar

..Applicant.

VS.

The State of Maharashtra

...Respondent.

Mr. A.P.Mundergi, Sr. Advocate i/by Umesh Mankapure for the Applicant.

Mr. A.A.Palkar, APP. for the State.

CORAM: A.S. GADKARI, J.

DATE: 18TH September, 2017.

PC:

1. The applicant is apprehending arrest in CR No.418 of 2017 dated 15.7.2017 registered with Baramati City Police Station Police Station, District Pune under section 420, 465, 467, 468, 471 read with 34 of the Indian Penal Code.
2. The first information report is lodged by Smt. Swati S. Gaikwad, Circle officer, Baramati stating that on 14.1.2017 she received orders from the higher authorities for lodgment of the present crime. It is stated that on 24.1.2017 at about 7.30 p.m. Talathi of Village Katewadi found illegal transportation of sand being done from Truck No. MH-20-BT-1000 and thereafter he accosted the said truck and seized four brass of sand and submitted a report to Tahsildar Officer, Baramati. With a view to preserve the said vehicle and to keep the vehicle in safe custody the said truck was given in possession of Baramati City Police Station. That, on 5.12.2017, the truck owner namely Navnath Waghmode

produced one order dated /02/2017 allegedly issued by Sub Divisional Officer, Baramati mentioning that the appeal preferred by the said owner i.e. co-accused Bapu G. Bhapkar is allowed and the order imposing fine of Rs.1,41,600/- by the Tahsdildar is quashed and set aside. That, co-accused persons Navnath Arun Waghmode and Bapu Ganpat Bhapkar produced the said order before the Baramati Police Station and the concerned police officer attached thereto released the said struck. It was revealed during the course of enquiry that the order which was produced by the accused Navnath Waghmode and Bapu Ganpat Bhapkar was a forged and fabricated order which was not in existence at all. It was further revealed that as a matter of fact that the appeal preferred by the said accused person was rejected by the concerned authority by its order dated 27.3.2017 and further fine was also imposed upon the said accused persons. In the enquiry it was further revealed that the order which was produced before Baramati Police Station dated / 2/2017 having the seal of S.D.O. Baramati was a totally bogus Order. In the premise, the first information report is lodged.

3. Learned counsel for the applicant submitted that the applicant has nothing to do with the said crime as the applicant was never attached to the said office of the S.D.O., Baramati Sub Division Baramati. He further submitted that the information received under the Right to Information Act for the Advocate for the applicant reveals that from 1.2.2017 to 30.3.2017 the applicant was not functioning either as

Clerk or was not on any other post in the said office. He further submitted that the applicant is neither the truck owner nor has got any benefit from the release of the said truck of the co-accused and therefore the custody of the applicant is not necessary for the purpose of investigation. He submitted that the applicant being the Government servant his custodial interrogation is not necessary and he may be granted pre-arrest bail.

4. Perused the record of the investigation. The record clearly reveals that during the course of investigation the role of present applicant has surfaced on record. It is revealed that when the co-accused Bapu Bhapkar had been to the New Administrative Office for the purpose of preferring an appeal, a person therefrom introduced the present applicant and the applicant assured the said accused that he will get the said work done and the accused will not be required to pay any fine. The applicant thereafter took Rs.80,000/- from the co-accused for giving him favourable order from the hands of Sub Divisional Officer Baramati, Sub Division Baramati. It further reveals that the applicant assured the concerned person that he will give receipt for the said amount subsequently and after receipt of the said amount the applicant handed over the present order which is admittedly forged and fabricated Order, to the concerned person. The Police have also recorded the statement of a police officer from the Baramati Police Station, who was present at the relevant time on duty. The concerned police officer

unequivocal terms has stated that, he was on duty and the present applicant who was working in S.D.O. Office, Baramati along with other co-accused had been to the Police Station and presented the said Order for releasing the truck. He has further stated that he gave acknowledgement to the present applicant on the copy of the said Order. The person who was accompanying the applicant was Navnath Arun Waghmode, owner of the said truck. Thus, the investigation carried out by the Investigating agency clearly prima facie establishes that the applicant is not only instrumental in fabricating the said order alleged to have been passed by the S.D.O. Baramati under Section 247 of the Maharashtra Land Revenue Code but has taken active part in the present crime by remaining present in the concerned police station for submitting the same while releasing the said truck.

5. After taking into consideration the serious allegations against the applicant and the gravity of the offence, this Court is of the considered view that the custodial interrogation of the applicant is imperative with a view to unearth the entire truth as to how the applicant has manufactured or fabricated the said order and for the recovery of the said amount involved in the crime.

6. In view of the above I find that there are no merits in the present application.

Application is accordingly rejected.

(A.S.GADKARI, J.)