IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1726 OF 2016

Sanjiv Kumar Parmanand Choudhary ... Applicant
Aged 34 years, R/o.E-101, Prajapati Garden,
Plot No.39, Sector-5, Near D-Mart,
New Panvel, District Raigad.
versus
The State of Maharashtra, through
Mulund Police Station - CR No.135 of 2016 ... Respondent

Mr.Subhash Jha with Ms.Sanjana Pardeshi i/by Law Global for Applicant.
Smt.Veera Shinde, APP, for State.
PSI T.D.Ghadage, Mankhurd Police Station, present.

CORAM : PRAKASH D. NAIK, JJ.
DATE : 17th July 2017

PC :

1. This is an application for anticipatory bail. The applicant is apprehending arrest in connection with CR No.135 of 2016 registered with Mulund Police Station, Mumbai. The offences were registered under Sections 420, 465, 467, 468, 471, 114 of Indian Penal Code.

2. The prosecution case, in brief, is that the applicant had forwarded his application to Maharashtra State Pharmacy Council to transfer his registration as Pharmacist by profession from Delhi to Maharashtra. The application was supported with relevant certificates. The concerned authorities, however, found that the certificates annexed to the said application were forged and fabricated. Inquiries were made with the concerned University of which the certificates were relied upon and the information was

received from the said University that the certificates are not issued by the University. The first information report (`FIR') was therefore registered with Mulund Police Station, Mumbai.

3. The learned counsel for the applicant submitted that the applicant has been unnecessarily implicated in the present case. He is the victim of the circumstances. He has not committed forgery of any documents as alleged. The applicant in pursuit of better prospects was influenced by the advertisement issued by Excellence Institute, Indore and, therefore, decided to pursue his education in Diploma in Pharmacy. The applicant obtained admission in Excellence Institute, Indore in 2010 and since the course of Diploma in Pharmacy was for two years, he would go to Indore practically every month and would stay there ranging from 3 to 7 days in which the applicant and several candidates would be given notes and practical training as well. The applicant appeared for the first year examination in July-2012 and then he appeared for the second year examination of Diploma in Pharmacy in January-2013 as the examination for the first year was reportedly delayed and was held in July-2012. In the month of February-2013, upon inquiry made by the applicant from Excellence Institute, Indore, he was informed that the results are available on line on the website of Institute. The applicant visited the site of the institute online and found that he had cleared his final examination of Diploma in Pharmacy and the applicant had paid a sum Rs.30,000/- in cash in the year 2010 at the time of seeking admission in Excellence Institute, Indore. Subsequently the applicant paid a sum of Rs.90,000/- by effecting online transfer within 15 days from 7th April 2014. It is further submitted that after having passed the examination of Diploma in

Pharmacy in Bundelkhand University, Jhansi, he was given certificates purported to have been issued by the said University and the same was handed over to the applicant by Excellence Institute, Indore. Armed with the said certificates, the applicant visited Pharmacy Council, Mulund and sought registration therewith. The applicant was called upon to produce training certificate, diploma certificate for D.Pharm for the first year and second year including mark sheets of respective examinations. He was also called upon to furnish original certificates issued by Delhi Pharmacy Council which was registered by Excellence Institute, Indore. Copies of the said certificates were made available to the applicant by Excellence Institute, Indore concerning that the applicant having passed examination of Diploma in Pharmacy. In the month of November-2014 and January-2015 the applicant applied for registration with Maharashtra State Pharmacy Council. The applicant was required to undergo three interviews by the said Council and he had cleared the said interviews. By letter dated 22nd January 2015, Maharashtra State Pharmacy Council called upon the Institute of Pharmacy, Jhansi to verify and confirm as to whether the applicant had completed D.Pharm from their college and has undergone the requisite practical training. In the month of May2-2015, the applicant was surprised to know that the certificates issued by Bundelkhand University, Jhansi and which was given to applicant by Excellence Institute, Indore, are not genuine. The applicant was informed that the only certificate issued by Delhi Pharmacy Council was genuine and rest of all were forged documents.

4. It is submitted by the counsel for applicant that the disputed certificates were issued by Excellence Institute, Indore, which is

controlled by one Vikram Bhat. The said person has widely publicized his institute in numerous print and electronic media and the manner in which the things were conducted, there was nothing to suspect any foul play. Several students were seeking admission through the said institute and they were made to appear in the examination after they were required undergo practical training and notes were given for preparation of examination. The applicant has nothing to suspect the approach of Mr.Vikram Bhat. The applicant is one of the victim of the mis-deeds committed by Mr.Vikram Bhat. Several other students were also affected by the acts committed by Mr.Vikram Bhat who was controlling the Excellence Institute at Indore. The said person was subsequently arrested by Mahitpur Police Station, Ujjain with regards to the fake mark sheet racket. It is submitted that the institute would give link of the mark list and other details concerning the candidates and there is a website on which the information with regards mark sheets and other details were provided by the said institute. The applicant is in no way concerned with the forgery of the documents. The applicant should have been cited as a witness in the present case. The applicant tendered the compilation of documents which includes the certificates of various courses completed with distinction by the applicant. Reliance is also placed on the complaint made by the applicant on 4th February 2017 to Superintendent of Police, Ujjain City, Madhya Pradesh and others in respect to the fraud by Mr.Vikram Bhat. It is, therefore, submitted that the applicant himself is a victim and no role of forgery can be attributed to him. He was a student of Bundelkhand University. In the FIR registered with other Police Stations, the students were not made as accused in the said complaints. It is, therefore, submitted that the applicant should be granted protection under Section 438 of

Code of Criminal Procedure, 1973 (`Cr.P.C.'). It is also submitted that the applicant was granted interim relief and he has co-operated with the investigation from time to time and the custodial interrogation of the applicant is not necessary.

5. Learned APP opposed the application for anticipatory bail. It is submitted that during the course of investigation, the involvement of the applicant is revealed. It is submitted that the applicant has relied upon the forged document and therefore, no relief be granted to him in exercise of powers under Section 438 of Cr.P.C. The documents submitted by the applicant to Maharashtra State Pharmacy Council for transfer of registration of applicant to the said council, are forged and fabricated documents. Inquiries made with the Bundelkhand University has confirmed that the certificates and the mark sheets relied upon by the applicant, were not issued by the said University and therefore the said documents are forged and fabricated. It is submitted that the applicant has not made it clear whether the Bundelkhand University, Jhansi had issued final certificate of passing and that in whose possession the certificate is lying. At the earlier point of time the applicant had sought time to place on record the hall ticket and mark list issued by the Excellence Institute at Indore. However, the said documents were not placed on record by the applicant. It is submitted that in paragraph 4 of the present application, it is stated that the applicant had appeared for the examination of First Year in July-2012 and Second Year examination of Diploma in Pharmacy in January-2013 as the examination for the first year was reportedly delayed and was held in July-2012. However, on perusal of the mark sheet of the first year submitted by the applicant, it can be seen that the same was issued on 24th June 2011 and the mark sheet of the second year was issued on 15th June

2012. The said mark sheets were accepted by the applicant and they were used before the Delhi Pharmacy Council wherein the registration was done by the applicant by using the said mark sheets. It is submitted that the applicant is required to be interrogated in respect to the said aspect. In paragraph 5 of the application, the applicant has stated that he was called upon to produce the training certificate by the council when he visited the office at Mulund for seeking registration. The applicant has submitted Annexure-I of Practical Training Contract Form for Pharmacists (Certificate for completion of Diploma in Pharmacy, Part-III), Annexure-II of Trainer/Supervisor's rating of the Student's Performance shows that a reference is made of Unique Medical Stores, Chhaniyapura, near Subhashgunj, Jhansi, Uttar Pradesh as the concern where the applicant had worked from 13th July 2012 to 24th October 2012. It is also disclosed that the applicant had worked with Apco Pharma Limited at Haridwar, Uttarakhand from 9th July 2012 to 11th January 2013 i.e. for a period of six months. It is submitted that inquiries are required to be made as to how the applicant had worked at two places in two different cities during the same period of time. It is further submitted that the inquiries were made with Unique Medical Stores and it was found that the said document was false and fabricated. The said information was false. Learned APP further pointed out the averments in paragraph 7 of the application wherein it is stated that in May-2015 the applicant came to know that the certificates issued by Bundelkhand University, Jhansi and which were given by the applicant, were not genuine. Upon further inquiries the applicant was informed that the documents are forged and fabricated. It is also mentioned that the involvement of Vikram Bhat came to the knowledge of the applicant as the person who was conducting the courses through Excellence Institute, at Indore and that he has created false and fabricated documents. It is submitted that the applicant thus had knowledge about the acts of Vikram Bhat in 2015, however, he did not make any complaint to any authorities against Mr.Vikram Bhat or the Excellence Institute at Indore. The complaint which is referred to by the applicant was made after the registration of FIR that too on 4th February 2017. It is submitted that the documents annexed at page 24 and 25 of the application i.e. the certificates issued by Bundelkhand University, Jhanshi dated 24th June 2011 and 15th June 2012 are false and fabricated documents. It is further submitted that although it is the claim of the applicant that said documents were issued to him by the Excellence Institute at Indore, in the application submitted to the Council for registration, there is no reference of the documents being issued through the Excellence Institute, Indore. It is submitted that the documents are to be recovered from the applicant. The co-accused Vikram Bhat is absconding. It is further submitted that letter dated 10th March 2016 purportedly issued by Bundelkhand University, Jhansi vide consignment bearing EU584836690IN was sent on 26th May 2016 to the complainant. The said letter is false and inquiry is required to be made in that regard with the applicant. It is submitted that the applicant was not a student of Bundelkhand University which is revealed from the inquiry made with the said University. It is submitted that the applicant has used the forged and fabricated documents while submitting his application before the Council and therefore, the anticipatory bail should not be granted to the applicant.

6. I have perused the documents on record. It is apparent that the applicant had submitted the certificates/mark sheets purportedly issued by Bundelkhand University along with his application to the

Maharashtra Council for his registration, which were found to be false and fabricated documents. The contention that is raised by the applicant is that he had obtained the said documents from Excellence Institute, at Indore. It is revealed that the applicant had also obtained registration from the Delhi Council by utilising fabricated documents. It can be seen that the applicant has not established that he is not involved in fabricating the said documents. The submission that he has obtained the documents from the aforesaid institute and that main accused Mr.Vikram Bhat is concerned with fabrication of the documents and the applicant is innocent, cannot be accepted. There is merit in the submissions advanced by learned APP as hereinabove. Communication was received from Bundelkhand University that the said University has not issued any such documents in the form of certificates or mark sheets in favour of the applicant. It is obvious that the said documents were false and fabricated. Although it is the case of the applicant that he had nothing to suspect the approach of the Excellence Institute, at Indore, particularly the conduct of Vikram Bhat and that he had enrolled himself in the said institute, cannot be accepted. The applicant had stated that he came to know about the conduct of the Vikram Bhat being involved in the racket in 2015, however, he did not find any complaint with any authorities against the said institute or Mr.Vikram Bhat. The attempt is made belatedly to lodge a complaint in February-2017 against Mr.Vikram Bhat and the said institute, which appears to be after thought. It is pertinent to note that the applicant had forwarded the letter purportedly issued by Bundelkhand University. The said letter was forwarded on 26th May 2017 in which it is mentioned that the applicant had appeared in Diploma in Pharmacy course from the Institute of Pharmacy, Bundelkhand University campus and also undergone practical training. That the said institute is approved by the Council of Pharmacy of India under Section 12 during the admission year of the applicant. On inquiries, it was found that the said letter which was purportedly issued by Bundelkhand University was false and fabricated document. This clearly issues the complicity of the applicant in the crime and he does not deserve to be granted protection under Section 438 of Cr.P.C.. The custodial interrogation of the applicant is, therefore, necessary. It is also noted that the averments made in the application are also contrary to the documents which shows the conduct of the applicant and the attempt to misguide the authorities. Considering the argument advanced by the learned APP, it is apparent that the investigating authorities have collected the cogent evidence against the applicant with regards to his involvement in the crime. In the aforesaid circumstances, I am not inclined to allow this application and grant relief as prayed for. Hence, I pass following order :

ORDER

(i) ABA No.1726 of 2016 is rejected;

(ii) At the request of the learned counsel for applicant, the interim order granted by this Court is continued for a period of six weeks from today.

(PRAKASH D. NAIK, J.)

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