

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1850 OF 2017

Alamgir Mohd. Momin Ali Shaikh ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

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Mr.Marroof M.Khan, Advocate for the Applicant.

Ms.P.P.Shinde, APP for the Respondent/State.

Mr.Shankar Vasant Patil, Police Sub Inspector, Antop Hill Police Station is present.

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CORAM : A.M.BADAR J.

DATED : 3rd NOVEMBER 2017.

P.C. :

1 The applicant/accused in Crime No.378 of 2017 for offences punishable under Sections 420, 465, 467, 471 of the Indian Penal Code read with Rules 3 and 6 of the Passport (Entry into India) Rules 1950 read with Para 3(1) of the Foreigners Order, 1948 read with Section 14 of the Foreigners Act 1946, by this application, is seeking pre-arrest bail.

2 Heard the learned Advocate appearing for the applicant at great length of time. He argued that uncle and aunt of the present applicant have filed separate applications for

passport and according to the prosecution case, the Character Certificate annexed to those applications in respect of the present applicant is forged. However, way back in the year 2001, the applicant had filed a suit before this Court in which the court has directed the authority not to summarily deport the present applicant. The learned Advocate further relied on verification of his documents conducted by the 'I' branch of the police in the year 2002 and argued that the very same documents were verified by the 'I' branch on earlier occasions, but nothing wrong was found by them during the verification and the Passport Authority has not filed any complaint against the present applicant. It is also argued that co-accused, who are uncle and aunt of the present applicant, and who are beneficiaries are granted pre-arrest bail by the learned Additional Sessions Judge, Greater Bombay, Mumbai and therefore, the applicant is entitled to same treatment.

3 The learned Additional Public Prosecutor opposed the application.

4 I have considered the rival submissions and also perused the entire case diary.

5 The prosecution case as reflects from the case diary is to the effect that one Bindu Hakim Ali Gazi and his wife Smt.Jahanara Begam Bindu Gazi have applied for passport by

annexing several documents to their applications. The 'T'-branch of Special Branch of Mumbai Police examined the documents annexed to the applications for passport tendered by Bindu Hakim Ali Gazi and Smt.Jahanara Begam Bindu Gazi. Some documents were found to be suspicious. According to the prosecution case, team of police personnel then took those documents and visited Gopalnagar-II Grampanchayat. It is case of the prosecution that present applicant had supplied his Residence Certificate for being annexed to the applications for passport tendered by Bindu and Jahanara. That certificate of resident was got verified from Pradhan of Gopalnagar-II Grampanchayat, Post – Barakpur, District North 24 Pargana by the Team of Police officer. During verification of the residence certificate annexed to the applications for passport, it was found that the said certificate was not issued by the Gopalnagar-II Grampanchayat. The certificate which was got verified by the team of police officers is dated 16/04/2006 allegedly signed by Pradhan of Gopalnagar-II, Grampanchayat, Bongaon, 24 Parganas (N), certifying that Alamgir Mohd. Momin Ali Gazi i.e. present applicant is personally known to the Pradhan and he is permanent resident of the address mentioned in the certificate. The address mentioned in the so called certificate was Village Suvaratnapur Post Satberiz. Upon verification of this certificate allegedly issued on 16/04/2006 by the Pradhan of the said Grampanchayat in terms has certified that the said certificate has not been issued from Gopalnagar-II Grampanchayat Office.

6 The applicant may or may not be resident of Gopalnagar-II, Grampanchayat. On earlier occasion, he might have been issued with some certificates showing that he was permanent resident on the address given in those certificates. However, the certificate which is used for getting passport by Bindu and Jahanara, which is in the name of the present applicant showing his permanent address and alleged to have been issued on 16/04/2006 is reported to be not issued by the Gopalnagar-II, Grampanchayat. In other words, forged certificate is used for obtaining passport for Bindu and Jahanara. *Prima facie*, it is seen that the applicant has supplied forged document to the co-accused for obtaining passport. The offence alleged is serious and, therefore, no case is made out for pre-arrest bail. Hence, the application is rejected.

7 The learned Advocate for the applicant after dictating the order sought permission to withdraw the application. As the matter is heard extensively in first as well as second sessions and as the request is made after dictation of entire order is given, the request so made is rejected.

(A.M.BADAR J.)