

Anand

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

ANTICIPATORY BAIL APPLICATION NO. 1922 OF 2017

Tushar Gajanan Kamathe

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr. A. P. Mundargi, Senior Counsel i/b. Mr. V. L. Kolekar, for the
Applicant

Mr. N. B. Patil, APP, for the Respondent – State

CORAM : A.S.GADKARI, J.

DATE : 09.11.2017

P.C.

. The Applicant is apprehending arrest in CR No. 427 of 2017 dated 27.10.2017 registered with Sangavi Police Station, Pune under Sections 417, 420, 467, 468 & 471 of the Indian Penal Code.

2. Heard the learned Senior Counsel for the Applicant, the learned APP for the State and perused the record of investigation.

3. The first information report is lodged by Shri Sachin M. Sathe. It is stated that he is active member of Indian National Congress and is a Social Worker from Pimpri-Chinchwad city. That on 11.01.2017 elections of Pimpri-Chinchwad Municipal Corporation were declared. That from Ward No. 26(B) the Applicant contested election on the ticket

of Bharatiya Janata Party and the first informant contested it on the ticket of Indian National Congress. That while submitting the nomination form, it is mandatory to give necessary and relevant information required under the law on Affidavit. The first informant complied with the necessary requirements. That the Applicant herein also submitted necessary documents in that behalf. However, as the first informant had suspicion about the educational qualification of the Applicant, he sought information under the Right to Information Act from the concerned college. It was informed to him that the Applicant had taken admission in Marathwada Mitra Mandal's Junior College of Commerce, Pune in the year 1998-99 in 11th Std. That the Applicant failed in 11th Std in the said academic year. That thereafter, the Applicant took admission in Baburavji Gholap Junior College, Sangavi, Pune in 12th Std (Commerce) and while taking admission to the said college he submitted a School Leaving Certificate with an endorsement 'F.Y.J.C.- Passed'. That the Applicant by submitting a forged and fabricated School Leaving Certificate and by misrepresenting the said Baburavji Gholap Junior College, Sangavi, Pune took admission in it. The first informant, thereafter, went to the Marathwada Mitra Mandal's Junior College of Commerce, Pune and made enquiry. It was revealed that in the year 1999, persons by name Gaikwad and Pathak were not Principal

and Clerk respectively in the said college. It is further stated that in the original School Leaving Certificate and the forged School Leaving Certificate submitted by the Applicant, there is variance in the place of birth also. The first informant, thereafter, lodged the present crime alleging that though the Applicant could not pass 'F.Y.J.C. exam (11th Std.) in the year 1999, he submitted forged and/or fabricated School Leaving Certificate to the said Baburavji Gholap Junior College, Sangavi, Pune and procured admission and while submitting the necessary and relevant documents for contesting the election for the post of Corporator of Pimpri-Chinchwad Corporation, misrepresented the Election Commission and Government and has committed the act of cheating. In the premise, the first information report is lodged.

4. The record clearly indicates that the School Leaving Certificate allegedly issued by Marathwada Mitra Mandal's Junior College of Commerce, Pune in favour of the Applicant with an endorsement 'F.Y.J.C.-passed' appearing at Sr. No. 508, annexed at page No. 30 to the present Application, is a forged and/or fabricated document. The Investigating Agency has recorded the statement of Vice Principal of the said college who in unequivocal terms has stated that the said Certificate was not issued by the said college and the persons namely Gaikwad and Pathak who have allegedly signed the said

Certificate in their capacity as Principal and Clerk respectively were never in the employment of the said college at that relevant time. The record further indicates that the Investigating Agency has seized the original School Leaving Certificate issued by the said Marathwada Mitra Mandal's Junior College of Commerce, Pune which is annexed at page No. 32 to the present Application. In the said Certificate, an endorsement is made by the college "Failed F.Y.J.C. Annual Exam held in March, 1999" and the same was issued on 19.07.1999. It is apparently clear that the signature of the Principal of the said college on the Certificate annexed at page No. 32 and the signature appearing on page No. 30 differs and as noted earlier, as per the statement of witness, the signatories to the Certificate which is at page No.30 were never in the employment of the said college. The record further indicates that on the basis of the said forged and fabricated School Leaving Certificate which is at page No.30 to the present Application, allegedly issued by Marathwada Mitra Mandal's Junior College of Commerce, Pune, the Applicant procured admission in 12th Std in the said Baburavji Gholap Junior College, Sangavi, Pune. That while submitting the nomination form and mentioning educational qualification therein, the Applicant has submitted information of education taken in the said Baburavji Gholap Junior College, Sangavi, Pune.

5. Prima facie, it appears that the Applicant is the perpetrator of the present crime and has forged and/or fabricated School Leaving Certificate bearing No. 508 (page No.30) to the Application. It is, therefore, necessary for the Investigating Agency to unearth the entire truth behind the present crime and therefore, thorough interrogation of the Applicant is necessary.

6. After taking into consideration the material available on record, the serious allegations against the Applicant and the gravity of the offence, this Court is of the considered view that the Applicant does not deserve to be protected by pre-arrest bail.

7. Accordingly, Application stands rejected.

(A.S.GADKARI, J.)