

Anand

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

BAIL APPLICATION NO. 339 OF 2018

Santosh Nanaji Waghmare .Applicant

Vs.

The State of Maharashtra .Respondent

Ms Mansha Khemka a/w Ms Bhagyashree Upadhyay i/b. Khemka &
Associates, Advocate, for the Applicant
Ms Pallavi Dabholkar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 04.04.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 177 of 2016 registered with the J. J. Marg Police Station, Mumbai, for the alleged offences punishable under Sections 465, 468, 471, 420 of the Indian Penal Code and under Sections 10, 11 & 12 of the Maharashtra Act.

3. Learned counsel for the Applicant submits that the Applicant has been falsely implicated in the said case and that the same

is evident from the supplementary statements recorded of the witnesses. She submitted that although the witnesses in their first statement had disclosed the name of the Applicant, in the supplementary statements, the said witnesses have stated that it was Dr. Wahab Mirza, who gave the forged & fabricated Certificates to the students and that the Applicant was present in the office and that the said Certificates were handed over by the Applicant. She submitted that in fact, it was Dr. Wahab Mirza, who is the main accused and that he is still absconding. She submitted that the Applicant is only 4th Std. passed and that his occupation is painting billboards for a living. She submits that the Applicant is in custody since 29.09.2016 and that investigation is complete and charge-sheet is filed. She further submits that the Applicant has no antecedents.

4. Perused the papers. The Applicant has been arraigned as an accused in the aforesaid C. R.. According to the prosecution, the Applicant alongwith other co-accused forged & fabricated Caste Certificates, pursuant to which the said Certificates were used by students for seeking admissions to the MBBS course in Govt. colleges, in the reserved quota. It is alleged by the prosecution, that the Applicant had received a sum of Rs. 30,000/- for preparation of the said

documents. Prima facie, it appears from a perusal of the statements of some of the witnesses that initially, the allegations were made only as against the Applicant, however, in the supplementary statements recorded after a month, the said witnesses have come out with the truth and have named one Dr. Mirza, as the main accused. In the said supplementary statements, the witnesses have stated that it was Dr. Wahab Mirza, who had promised to give Caste Certificates to the students for huge amounts i. e. for Rs. 15,00,000/- and that they had paid the said amounts to Dr. Wahab Mirza. A perusal of the supplementary statements also shows that the said amounts were paid by the students and their families to Dr. Wahab Mirza in his office and the Certificates were handed over to the students. The said witnesses have further stated that at that time when they went to collect the Certificates, the Applicant was sitting in Dr. Wahab Mirza's office, and that he told the parents of the students, that the Applicant had got the said Certificates and that the Applicant had disclosed that he had got the said Certificates prepared from someone. The said witnesses have stated that Dr. Wahab Mirza had asked them to name the Applicant as having given the forged Caste Certificates. All the students in connection with the said offences, who used the said forged Caste Certificates and secured admissions to the MBBS course were arrested and later

enlarged on bail. The Applicant has no antecedents. The Applicant is in custody since 29.09.2016. Investigation is complete and charge-sheet is filed.

5. Considering the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

- (i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs. 50,000/-** with one or two sureties in the like amount;
- (ii) The Applicant shall report to the investigating officer of the concerned police station on the first Sunday of every month between **10:00 a. m. and 11.00 a. m.** till the conclusion of the trial;
- (iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The Applicant shall not leave the jurisdiction of Mumbai & Thane City without prior permission of the trial Court;
- (v) The Applicant shall file an undertaking with regard to clauses (ii) to (iv), in the trial Court, within two weeks of his release;
- (vi) The Applicant to cooperate with the conduct of the trial;
- (vii) If there are 2 consecutive defaults in either reporting to the

police station or appearing before the trial Court, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)