

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1199 OF 2018

Rashid Rafiq Kadri
Age 49 years, presently
at Mumbai Central Prison.

Applicant

versus

The State of Maharashtra

Respondent

Mr.Raja Thakare and Mr.Bharat K. Manghani for applicant.

Ms.PN.Dabholkar, APP, for State.

Mr.Jaydeep Gaikwad, Police Inspector, Sr.J.J.Marg Police Station,
present.

CORAM : PRAKASH D. NAIK, J.

DATE : 20th June 2018

PC :

1. This is third application for bail. In view of rejection of earlier bail applications, this matter has been listed before this Court pursuant to the order dated 15th June 2018 passed by the co-ordinate Bench.

2. The applicant is arrested on 11th November 2016 in connection with CR No.177 of 2016 registered with J.J.Marg Police Station, Mumbai. The case of prosecution is that several students who had taken admissions for medical degree course, were found to have obtained such admissions by producing fake caste certificates. On inquiry it was revealed that the documents produced by the students were forged. Pursuant to registration of first information report the investigation proceeded. It is the case of prosecution that Dr.Mirza is the main accused who was instrumental in providing fake certificates to the students which were found to be forged. The said accused is absconding.

3. The applicant preferred bail application before this Court which was numbered as Bail Application No.539 of 2017. The same was rejected on 29th June 2017. Thereafter another application was preferred viz Bail Application No.2355 of 2017 which was also rejected by order dated 25th January 2018.

4. It is submitted that the applicant is entitled for bail on the ground of parity. The applicant is relying on the order dated 4th April 2018 passed by co-ordinate Bench granting bail to co-accused Santosh Waghmare. Learned counsel for applicant submitted that bail was granted to the co-accused Santosh Waghmare subsequent to rejection of bail of the applicant by this Court. It is submitted that the said co-accused was allegedly involved in providing forged documents and the role attributed to him is more serious than the present applicant. It is submitted that role attributed to the present applicant is in respect to introducing one Jasraj Purohit and his son Karan Purohit to Dr.Mirza and beyond that the applicant has not played any role in the alleged crime. At the time when earlier applications were rejected, the co-accused Santosh Waghmare was in custody who is presently out on bail. It is submitted that the applicant is in custody since 11th November 2016 and other accused are on bail.

5. Learned APP submitted that earlier applications preferred by the applicant were rejected by this Court and there is no change in the circumstances to entertain present application. She further submitted that while rejecting the earlier applications, the Court has assigned reasons showing the role played by present applicant and

the said applications were rejected on merits. The applicant has not made out any case for reconsidering the application for bail. The co-accused has been granted bail by the co-ordinate Bench of this Court considering the role attributed to the said applicant the nature of evidence against him, and, therefore the ground of parity is not available to the applicant. It is submitted that the applicant is having criminal antecedents.

6. I have perused the documents on record and the earlier orders passed by me rejecting the applications of the applicant. The co-ordinate Bench has granted bail to co-accused Santosh Waghmare. While granting bail to the said co-accused, it is observed that initially allegations were made by witnesses only against that accused, but subsequently witnesses have named Dr.Mirza to whom they paid the money. The witnesses also stated that when they went to meet Dr.Mirza, he told the parents of students to name the said accused Waghmare having given forged certificates. In the light of the observations made therein, the co-accused Santosh Waghmare has been granted bail by the co-ordinate Bench of this Court. Thus, the applicant is not entitled for parity.

7. While rejecting earlier bail application it was observed in order dated 29th June 2017 that the applicant has played important role in committing the crime and had also collected the amount from the father of student. He also handed over the forged certificate to the student and therefore he has played active role in the crime. It was further observed that considering the nature of crime committed by the applicant, he is entitled for bail. In subsequent order dated 25th January 2018, it was observed that in view of earlier rejection, the

case for bail is not made out. While arguing the second application for bail, it was submitted at the instance of applicant that the co-accused Reshamwala is granted bail. This Court, therefore, observed that Reshamwala be granted bail primarily on the ground that co-accused Santosh Waghmare has been released on bail. The Court also noted the fact that the application for cancellation of bail granted to Reshamwala has been rejected by the Trial Court. It was also observed that Santosh Waghmare was in custody while bail being granted to Reshamwala, although in the order granting bail to the said accused it was observed that Reshamwala was already released on bail. It was also observed that the grounds raised by the applicant were not sufficient to allow the application for bail.

8. The statement of Devkinandan Purohit dated 9th November 2016 was recorded during the course of investigation. In the said statement he has stated that the applicant had informed him that with the help of another person admission for MBBS course will be arranged by him. Devkinandan Purohit is the brother of student, who took admission for MBBS course on the basis of false caste certificate. The witness further states that the applicant met Karan Purohit, his father and brother in a marriage function and at that time he informed that he will arrange admission for MBBS with the help of Sir but they only have to spend about Rs.15 lakh for getting admission. He was paid a sum of Rs.15 lakh in three equal instalments of Rs.5 lakh each after admission of Karan was cancelled. The charge sheet also contains the statement of Ashok Kumar Pimple dated 3rd December 2016. The said witness has stated that one social worker had approached him and told him that some students are in trouble on account of MBBS admissions and in that regard

Dr.Amit @ Ambikaprasad Mishra needs guidance. The witness is working in Mantralaya. Thereafter he met Dr.Mishra and said social worker. Thereafter meeting was fixed at Trident Hotel which was attended by Dr.Mishra, applicant, Dr.Mirza. He was informed by applicant and Dr.Mirza that they had prepared bogus caste certificate of 19 students. The statement of Ambikaprasad Mishra recorded on 23rd November 2016 also refers to the meeting as stated above. The applicant was present in the said meeting along with Dr.Mirza. He stated that Dr.Mirza in presence of applicant offered to spend Rs.3 crores to close the case. It was also decided according to him that they would collect Rs.5 lakh from parents of each student and by paying the amount to Mr.Pimple and Mr.Gavit who was the whistle blower, the case will be closed. Applicant was present in the meeting. The statement of Ronak Goradia states that he was informed about the amount being paid to applicant. The statement of Jasraj Purohit attributes clear role to the applicant and shows his involvement in the crime. He is the father of Karan Purohit. He has stated that applicant was introduced to him by some person. Applicant promised them that he will get admission for MBBS. He said they will have to spend around Rs.15 lakh. Applicant collected Rs.15 lakh in three installments. The applicant handed over fake caste certificate. After cancellation of admission and registration of FIR, the witness contacted the applicant. He advised them to leave house. The witness met applicant subsequently. Applicant took him to Dr.Mirza. He was promised that their work will be done within eight days. As stated in the earlier orders, the applicant is a person who introduced the student and his father to Dr.Mirza and he was also present in the subsequent meetings which were held to see as to how the prosecution can be put to an end with the help of one of the

witnesses. The applicant collected Rs.15 lakh from Mr.Purohit. As observed hereinabove, the co-accused has been granted bail by the co-ordinate Bench of this Court after rejection of the application preferred by present applicant considering the role assigned to him and on the basis of statements which were part of the charge sheet. The investigation papers reveal that the applicant has played vital role in the said crime and it cannot be said that his role was minor in nature and that he is entitled for bail. The earlier applications were rejected by assigning reasons and no case is made out for reconsidering the application for grant of bail.

9. Hence, I pass following order :

ORDER

(i) Criminal Bail Application No.1199 of 2018 is rejected.

(PRAKASH D. NAIK, J.)

MST