

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

ANTICIPATORY BAIL APPLICATION NO.2076 OF 2017

Faruque Kharbe

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Girish Kulkarni, a/w. Mrunmai Kulkarni, i/by Chetan Agarwal for the Applicant.

Mr. A.A. Takalkar, APP for the Respondent – State.

CORAM : A.S.GADKARI, J.

DATE : 9th JANUARY 2018

P.C.:

1. The applicant is apprehending arrest in CR No.I-210/2017 dated registered with Nizampura Police Station under Sections 420, 467, 468 and 471 of the Indian Penal Code.
2. Heard the learned Counsel for the applicant and the learned APP. Perused the record of investigation.
3. The first information report is lodged by Shri. Dilip B. Khane, Deputy Commissioner (Tax and Assessment) and Collector employed with Bhiwandi Municipal Corporation. It is the case of prosecution against the applicant that, the applicant in connivance with co-accused while performing his lawful duties, with a view to facilitate three landlords

during the period from 05.10.2015 to 15.10.2015, submitted bogus reports to the Corporation, thereby causing loss to the Government Exchequer and facilitated the landlords in getting lower tax assessment than required under the law. It is also the allegation against the applicant that, he put bogus inward numbers on the reports submitted by him for assessing the said properties of the three landlords for tax.

4. The learned Counsel for the applicant submitted that, the applicant was entrusted with the work of visiting the site and submitting report to his immediate higher Authority for fixing the assessment of the house property tax. He submitted that as a matter of fact, the applicant did not make any interpolation or addition in the original record, and therefore, the offence of forgery cannot be alleged against the applicant. He further submitted that the applicant is working in the lowermost rank in the hierarchy of the employment and has no authority to fix assessment of the property, and therefore, there is no question of causing monetary loss to the Government Exchequer at the hands of the applicant. He further submitted that the applicant is working in the said Corporation and if he is arrested, his carrier will be in difficulty. He, therefore, prayed that the applicant may be granted pre-arrest bail.

5. The record indicates that, it is the specific allegation against the applicant that the applicant with a view to facilitate landlords namely Mr. Shabbir S. Bobade, Mr. Momin Sayeed Mohammad Rafiq and Mr. Mayur G. Mhatre submitted bogus reports pertaining to the status of their property to the Corporation with tax certain inward numbers. A bare perusal of the record further clearly indicates that, the inward numbers namely 5427 dated 31.03.2015 and 5423 dated 31.03.2015 are infact the inward numbers of persons namely Mohammad Ali Khatib and Kuldumbanu Ansari on that particular date. There is no name of Mayur Mhatre in the inward register dated 31.03.2015. The record further indicates that though the concerned Bit Clerk had submitted a report to the applicant that the construction of properties in question was being carried out and the same were at the stage of either construction of plinth or footing, the applicant submitted report to the Corporation that, the construction of the said properties of the said three persons have been completed in the year 2007-08 with a view to facilitate the said landlords for getting benefits of lower rate of tax fixation. The record further clearly indicates that the Dy. Commissioner of Police, Bhiwandi Nizampura Municipal Corporation has given a statement and it is categorically stated

that the work of submitting proposal for fixation of tax pertaining to the properties of the aforesaid three landlords alongwith other properties was entrusted to the applicant and the applicant was alone performing the said duty and he was not given assistance of any other person. It is also stated that the proposal of the afore-stated three landlords have not been submitted by the applicant to the Corporation as per the rules of business of the said Corporation and the applicant is responsible for the same.

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

7. Application is accordingly rejected.

At this stage, the learned Counsel appearing for the applicant submitted that the interim relief granted by an Order dated 07.12.2017 may be continued for the further period of two weeks from today to prefer appeal against this Order.

For the reasons stated herein-above and after taking into consideration the serious allegations against the applicant, the said prayer is rejected.

(A.S.GADKARI, J.)