

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

ANTICIPATORY BAIL APPLICATION NO.861 OF 2019

Ijaj Ahmed Kamruddin Sharikmaslat Applicant

versus

The State of Maharashtra Respondent

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- Mr.A.P. Mundargi, Senior Advocate, i/b. Jayant J. Bardeskar, Advocate for Applicant.
- Ms.A.A. Takalkar, APP for the State/Respondent.
- PN Mr.S.S. Kurne, Jaysingpur Police Station, Kolhapur, present.

CORAM : SARANG V. KOTWAL, J.
DATE : 16th AUGUST, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.289/18 registered with Jaysingpur Police Station, Kolhapur, under sections 420, 465 of the Indian Penal Code.
2. The offence is registered on 31/10/2018 at the instance of one Shivaraj Bandopant Naikwade. He has stated that he was working as a Superintendent with a Public

Charitable Trust Registration Office. During the course of his working, his office conducted enquiry and found that order purportedly passed under the Change Report No.1151/17 by the Charity Commissioner was forged. Based on which, the Change Report was obtained in respect of one Adarsh Education Society Kothali. On that basis, the FIR is lodged. The Applicant is apprehending his arrest in connection with the investigation in that offence. The Applicant is at present working as Deputy Chief Officer at Palghar. At the relevant time, he was working in Rural Development Department as Officer on Special Duty.

3. Heard learned Senior Counsel Mr.A.P.Mundargi for the Applicant and learned APP Ms.A.A. Takalkar for the State.
4. Mr.Mundargi invited my attention to the various remand reports in respect of the arrest of other accused who were mainly on the Board of Trustees of that particular Trust.
5. He submitted that from the remand reports the allegations appear to be that the forged order was obtained for

making an application to obtain status of 'Minority Trust' and thereby to obtain wrongful benefits for that Trust. The remand report mentions that the statement of one Anil Borgave was recorded. He was working as a Principal in one of the Junior Colleges of the said Trust. According to him, the present Applicant and one Dustagir Mulla were instrumental in creating that forged order. The investigation proceeded and further remand reports show that the said Dastagir Mulla with active help of one Sultan @ Dustagir Korbu had created that forged order. Initially the forged order was used for obtaining minority status. When it came to light that the order was obtained fraudulently, the grant of 'Minority' status to the said Trust, was revoked. Mr.Mundargi submitted that the Applicant was working in Mantralaya and at the highest the allegations are that he had given information to the Trustees of the said Trust in respect of procedure for obtaining the status of minority Trust. He submitted that no offence is committed by the Applicant and therefore his custodial interrogation is not necessary.

6. Learned APP relied on the investigation papers in respect of investigation carried out so far. The statement of witness Anil Borgave is important in this behalf. Apart from that, the investigation papers also include the statements of co-accused Dustagir Mulla and Sultan @ Dustagir Korbu. Keeping aside the question of admissibility of such statements, all these statements show that the present Applicant had advised Trustees as well as Anil Borgave in respect of procedure in making the online application and he had informed about the necessary documents required for obtaining such status. Beyond this, all these statements do not show his active participation in creating a forged document. The statement of Sultan @ Dustagir Korbu shows as to how the other accused Dustagir Mulla and he himself had committed the actual forgery. The only reference to the present Applicant's name is that, Dustagir Mulla had represented to Sultan @ Dustagir Korbu that if something went wrong, the Applicant would take care of the situation in Mantralaya. However, the material collected so far by the investigating agency, does not show as to in what manner the

present Applicant had participated in creating and using the forged document. There is nothing to show that the present Applicant in any manner was benefited by the act of other accused including the Trustees of the said Trust. The present Applicant was not benefited from the Trust getting the status of a minority trust. The allegations against the present Applicant do not travel beyond the suspicion. There is nothing to show that he had derived any monetary benefit. The Applicant is working on a responsible position and is a Government Servant. Therefore, his custodial interrogation at this stage based only on vague suspicion, will cause irreparable harm to him. As on today, the investigating agency does not have any concrete material connecting him with the actual offence except for the statement showing that the Applicant had guided others in respect of procedure for obtaining minority status. In this view of the matter, the custodial interrogation of the Applicant is not necessary. He can be protected by the order of anticipatory bail. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.289/18 registered with Jaysingpur Police Station, Kolhapur, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)