

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1229 OF 2019

Bhaskar Madhav Taske

...Applicant

Versus

The State of Maharashtra

...Respondent

WITH

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1152 OF 2019

Indrajit Balaso Mane

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

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Mr. Ashwin V. Sakolkar a/w. Rishabh Gugale, Advocate for the Applicant in ABA No. 1229/19.

Mr. Sattavrat Joshi a/w. Sunil S. Kamble, Advocate for the Applicant in ABA No. 1152/19.

Mr. H. J. Dedhia, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 21st February, 2020.

PC :

1. The applicants in both these applications are seeking Anticipatory Bail in connection with C.R. No. 258 of 2019, registered with Islampur Police Station, Sangli for the offences punishable under Sections 420, 467, 468 and 471 r/w. 34 of Indian Penal Code, 1860 ('IPC' for short) and Sections 66 & 66(C) and 66(D) of Information Technology Act, 2000 ('I.T. Act' for short) as well as Sections 7, 8 of Maharashtra Prevention of Malpractices at University Board and Other Specific Examination Act, 1982.

2. The case of prosecution is that, since April, 2017, complainant is serving as Deputy Secretary in Maharashtra Public Services Commission (MPSC). The MPSC conducts recruitment process for government services as per demands of the concerned departments. The advertisement is publishes in newspaper and website of MPSC. The desiring candidates submits their applications on website. The candidate is required to create profile and upload his photograph with digital signature with his details. After verifying details given by the candidate, the decision is declared on the website, whether the form/application was accepted or rejected. Seven days prior to the examination and until the last day of submission of application, seat numbers of candidates are generated as per the computer procedure. Thereafter, eligible candidates are informed their seat number on their profiles as per existing procedure. In June, 2015 the randomization of seat numbers of candidates was based on his or her surname, first name and father's name through computer programme. Two or more candidates with same surname, middle name and first name, were given seat numbers one after another, as per online application procedure. On website of MPSC, the candidate was able to change the information given in his profile by using user ID and password. The candidate was not able to change the details submitted by him in his application to MPSC Board. By taking disadvantage of

randomization, some candidates created fake accounts to adjust their seat numbers. Complaint was received by MPSC board in this regard and hence enquiry was conducted. Examination for Tax Assistant, 2014 was conducted on 22nd February, 2015 at 35 District centers across Maharashtra. In the said examination, two candidates Vaibhav Babaso Patil were given seat numbers as KL001305 and KL001306. It was transpired that, to help Vaibhav Babaso Patil, seat number KL001305, Indrajit Balaso Mane created fake account and submitted online application under the name of Vaibhav Balaso Patil. So that, they would get seat numbers one after another. First Information Report ('F.I.R' for short) was lodged with Islampur Police Station, Sangli, vide C.R. No.214/2014. On completing investigation, charge-sheet is filed in that case. On 22nd April, 2015, MPSC published advertisement for the examination of Tax Assistant, 2015. Examination was held on 7th February, 2015 at 35 District centres in Maharashtra. The seating arrangement was made as per the existing procedure. At Kolhapur District Centre, two candidates by name Bhaskar Madhav Taske and Bhaskar Madhav Tasgaonkar were given seat number as KL001315 and KL001316. The MPSC board called details of these candidates, and it was found that, the candidate having seat number KL001316, photograph of application submitted to the Board was of accused. Indrajit Mane involved in C.R. No. 214/14, registered with Islampur Police Station, Sangli. To verify the

identity of Bhaskar Madhav Tasgaonkar, the letter was sent to the address mentioned in the application of Bhaskar Madhav Tasgaonkar by RPAD. The letter was returned with endorsement that, there is no such person bearing that name. Thus, it was inferred that, the person by name Bhaskar Madhav Tasgaonkar does not exist. Indrajit Mane is an experienced candidate, having knowledge and procedure of examination, helped Vaibhav Patil to pass the examination. Indrajit Mane used his experience and it was found that, the photograph on the application of Bhaskar Madhav Tasgoankar is that of Indrajit Mane and mobile number mentioned in the application belongs to Bhaskar Taske. After passing 10th standard examination in 2002, Bhaskar Taske was expected to pass his 12th standard examination in 2004. He passed his 12th standard examination in 2006, after repeated attempts and from this it can be gathered how studious and eligible he was for appearing in the examination. It is further alleged that, without previous experience, the said applicant, appeared for this examination being Scheduled Tribe candidate and cleared this examination and also topped second in the State and secured 204 out of 400. Bhaskar Taske had appeared for Sales Tax Exam at Hingoli. He created account on website of MPSC for Tax Assistant Examination but did not fill up the application on that day. On 12th May, 2015 at 4.39 p.m. Indrajit Mane created his account in the name of Bhaskar Tasgonkar on the said website and accordingly both

accused filed application, one after another at 5.03 p.m. and 5.05 p.m. Bhaskar Taske and Bhaskar Tasgonkar deposited the fee of exam by way of Challan from State Bank of India on 10th May, 2015 at Islampur. It was gathered that both these candidates have deposited fees and filled their application at Islampur. Bhaskar Taske being resident of Hingoli, was expected to chose Hingoli centre but he had chosen Kolhapur Centre. It was transpired that, to help Bhaskar Madhav Taske, the applicant having seat number KL001315 Indrajit Mane created bogus account and submitted online application under the name of Bhaskar Tasgaonkar so that, they would get seat number one after another. They violated norms of competitive exams and with the intention of cheating and to obtain government service, they created fake account.

3. The applications of both the applicants were rejected by Sessions Court on 10th May, 2019.

4. Learned Advocate for the applicant in ABA No. 1229 of 2019 submits that, the applicant has been falsely implicated in this case. He is not involved in the crime. He has not committed any malpractice. The complaint is filed after inordinate delay of three years. There is no evidence that account of Bhaskar Madhav Taske is created by co-accused Indrajit Mane. Custodial interrogation of the applicant is not necessary. The details given by the applicant are genuine. His photograph is genuine. There is no discrepancy in his

identity. He has no concern with Indrajit Mane. Both are independent. They are not from the same place. They never studied together. Co-accused have no reason to create false account to help applicant, if the co-accused barred for the exam for Bhaskar Taske he would have been caught as his identity proof do not match with the hall ticket. There is every possibility somebody else has caused harm to the applicant and created false account under the name of Bhaskar Tasgaonkar by using photograph. The applicant was directly selected. The enquiry for the offence is already conducted. Documents are collected. Custodial interrogation is not necessary. The applicant had passed his Master of Arts examination with first class and then he appeared for MPSC examination. He is a Government Servant. There is no question of absconding. Learned Advocate for the applicant had relied upon the documents such as his statement of marks, Degree Certificate of Bachelor of Arts etc.

5. Learned Advocate for the applicant appearing in ABA No. 1152 of 2019 submitted that, the applicant cannot be subjected to custodial interrogation. The prosecution case is based on inferences. The applicant is willing to co-operate with the investigation. The details given in respect to the co-accused were genuine. His photograph is genuine. The applicant is not concerned with the co-accused. They are not acquainted with each other. There is every possibility that, the applicant has been implicated in this

case. The applicant has been serving in the GST Department. The applicant was implicated as accused in C.R. No. 214 of 2016. He was granted interim protection under Section 438 of Criminal Procedure Code, 1908 ('Cr.PC' for short). He is willing to co-operate with the investigation. He is a Government Servant and there is no possibility of absconding. It is submitted that, the applicant was already subjected to interrogation in C.R. No. 214 of 2018, need not be subjected to interrogation and prosecution in the similar offence. The repeated prosecution is barred by law. He relied upon the decision of Hon'ble Supreme Court in the case of ***T.T. Antony v/s. State of Kerala and Ors.***¹ It is submitted that the offence is of technical nature. The provision of I. T. Act would not be attracted at the penal provision cannot be invokes the offences under the Act. I. T. Act are bailable in nature. He relied upon the decision of this Court in the case of ***Gagan Sharma & Anr. V/s. State of Maharashtra & Anr.***² It is further submitted that, the applicant and the co-accused are not from the same place, nor they have committed any offence of forgery, which would not be applicable to the applicant. Details of the co-accused are genuine. The applicant is willing to co-operate with the investigation. The applicant was granted interim protection by this Court. He need not be subjected to custodial interrogation. He is complied with the direction of attendance to the police station.

1. 2001(6) SCC. 181.

2. 2019 MR CR. 595.

6. Learned APP submitted that, the offence is of serious nature. There is strong evidence to show the involvement of both the applicants. Both of them have acted in connivance with each other. Custodial interrogation of the applicant is necessary. The offence is of serious nature. The applicants had filled up their forms online with the time gap of two minutes by creating fake profile. Therefore, they got adjacent seat numbers. They adopted the same modus, as adopted earlier, by creating fake profile in the name of Vaibhav Patil, which is subject of C.R. No. 214 of 2016. The investigation is in progress. It is submitted that, in June 2015 examination, the applicants got adjacent seat numbers. The applicant Bhaskar Taske had secured good marks with the assistance of the other applicant. The hand writing expert opinions, supports the prosecution's case. Natural writing of Indrajit Mane on letter address to Secretary, MPSC dated 31st December, 2018 and writing on brown paper envelope address to Deputy Secretary, MPSC were the natural writing. Signature/writing/figures purporting to Bhaskar Taske on muster for the purpose of Tax Assistant Examination 2015, having Answer-sheet No. 750816 and signature/writing/figures of Vaibhav Babaso Patil on muster, for the purpose of Tax Assistant Examination 2014, having Answer-sheet No. 342570 and the signature/writing/figures of Vaibhav Babaso Patil and Bhaskar Madhav Taske were forwarded to handwriting expert opinion, and

report was received that, the writings/figures/signatures marked Q1, Q4, Q1A to Q4A and natural writings/ figures/ N1 to N2 appears to have been written in one and same numbers.

7. On perusal of the entire material on record and the investigation papers, it is clear that, the offence is of serious nature. Prima-facie, the involvement of both the applicants is disclosed. There is sufficient evidence to subject them to custodial interrogation. The investigation in C.R. No. 214 of 2018 and the present FIR are independent. It was necessary to investigate the link between the accused involved in C.R. No. 214 of 2018 and the current FIR. Investigation is not barred by any law. There are strong circumstances to show the involvement of both the applicants. Handwriting expert opinions support the prosecution's case. There is evidence to show that the handwriting of Indrajit Balaso Mane, who appeared as Bhaskar Madhav Tasgaonkar and Vaibhav Patil were appeared in 2014 examination is similar. Photograph of both the persons is same. There are incriminating circumstances in the nature of filling the form one after another and taking advantage of randomization, which shows the involvement of both the applicants. Considering the nature of offence, their custodial interrogation is necessary. The cellphone number found on the application of Tasgaonkar Bhaskar Madhav belong to Bhaskar Madhav Taske. In the circumstances, no case for grant of Anticipatory bail is made out.

ORDER

- (i) Anticipatory Bail Application Nos. 1229 of 2019 and 1152 of 2019, are rejected.
- (ii) At this stage, learned counsel for the applicant seeks extension of interim relief granted by this Court to enable the applicants to move the higher Court if so advised. The interim protection is running in favour of the applicant since June, 2019. In view of the submissions same is extended by four weeks in both applications.

(PRAKASH D. NAIK, J.)