

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL APPLICATION (ABA) NO. 755 OF 2020

(Tushar Diliprao Gunarkar and another ..vs.. State of Maharashtra, through PSO, PS Nandanvan,
Nagpur)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. P.S. Tidke, Counsel for the applicants,
Mr. S.S. Doifode, Addl.P.P. for the non-applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 16-12-2020

The applicants are apprehending arrest in Crime 704/20 registered with Nandanvan Police Station, Nagpur for offences punishable under Sections 420, 465 and 468 read with Section 34 of the Indian Penal Code.

2. The crime is registered on the basis of report dated 07-11-2020 lodged by Mr. Balkrushna Mulchand Aacharya. The report alleges fraud in two parts. The first part of the report pertains to the forged and fabricated 10th and 12th certificates which the accused allegedly delivered to the complainant and extracted a substantial amount and the second part pertains to the amount extracted from the complainant and his wife by one of the accused promising employment.

3. The applicants are not concerned with the second part.

4. According to the prosecution, the complainant could not clear 10th examination and since he was desirous of securing admission in the Government Yoga Course, he needed 10th and 12th Certificates. One of the co-accused assured him that at a cost, the certificates can be obtained. As a fact, the 10th and 12th certificates purportedly issued by the Uttar Pradesh Higher Secondary Board and the Delhi Secondary and Higher Secondary Board of Education were handed over to the complainant. I have carefully scrutinized the case diary. There is more than ample material in the case diary to *prima facie* connect applicant 1-Tushar with the crime. However, applicant 2-Nishant is entitled to pre-arrest protection. The versions of the complainant qua his role is inconsistent. In the statement recorded during the investigation, the complainant has not attributed any role, and as a fact, has not even named him.

5. However, applicant 1-Tushar appears to be a vital link in the fraud perpetrated and to unravel and unearth the various facets of the crime, his custodial interrogation is indispensable. The application is rejected as regards applicant 1-Tushar. Applicant 2-Nishant is entitled to pre-arrest protection.

6. In the event of arrest in Crime Crime 704/20 registered with Nandanvan Police Station, Nagpur for offences punishable under Sections 420, 465 and 468

read with Section 34 of the Indian Penal Code, applicant 2-Nishant shall be released on furnishing personal bond of Rs.25,000/- with a solvent surety of like amount, which surety may be furnished within four weeks from the arrest, if any.

7. Applicant 2-Nishant shall attend the concerned police station on 21st, 22nd and 23rd December, 2020 from 11-00 a.m. to 2-00 p.m. and shall cooperate with the Investigating Officer.

8. Applicant 2-Nishant shall not make any attempt to influence the witnesses.

JUDGE

adgokar