**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.236 OF 2021

BHAUSAHEB DAJI WAGH
VERSUS
THE STATE OF MAHARASHTRA
...
Advocate for Applicant : Mr. Deshmukh Himmatsinh D.
APP for Respondent/State: Mrs. R.P. Gaur
...

CORAM : MANGESH S. PATIL, J.

DATE : 17.06.2021

PER COURT :

This is an application under Section 438 of the Code of Criminal Procedure as the applicant is apprehending that he would be arrested in connection with Crime No.11/2021 registered with Nizampur Police Station Dist. Dhule for the offence punishable under Sections 420, 468, 471 and 474 of the Indian Penal Code.

2. The FIR has been lodged by one Mr. Yogesh Dhanger who happens to be owner of a piece of land to the effect that without he having ever executed any writing agreeing to let the property to the applicant a forged document has been brought into existence. It is also being alleged now that the applicant in collusion with a co-accused has brought into existence that forged document to lay a claim for dealership of a petroleum outlet while submitting online application for distributorship pursuant to a tender floated by Hindustan Petroleum Corporation Ltd. (for short HPCL).

3. The learned advocate Mr. Deshmukh for the applicant would submit that though it is the fact that the applicant did submit an application for distributorship mentioning the land belonging to the informant as the property for setting up the outlet, he had done so merely because the informant owner had entered into an oral agreement to lease out the property to him. He would point out that a similar statement of his was recorded by the police when he was called upon and served with a notice under Section 41 of the Code of Criminal Procedure (Page No.33).

4. The learned advocate would submit that he had *bona fide* applied for distributorship and had never indulged in any forgery. He has not authored alleged forged document and had never submitted it to any authority. He is unaware as to how the document has been brought into existence. He has been granted ad-interim protection. He is bound by the conditions and would cooperate the Investigating Officer. There is nothing to be recovered from him and perhaps he is being falsely implicated because of a tussle between the other two persons/applicants aspiring to have the dealership and had applied for its allotment along with the applicant who was a person at serial No.3.

5. The learned APP submits that the offence is serious. Though the applicant himself had never tendered any document much less the forged one to the HPCL, it has transpired during investigation that he was the person who has played active role in bringing that document into existence. She would point out that the Investigating Officer could get a

photocopy of that forged document from the HPCL which in turn had received it with a complaint lodged by one of the applicants who was placed at serial No.2 by name Mr. Bhupendra Bagul.

6. She would further point out that since the document is a notarized one, even before the Notary could be made an accused, an inquiry was made with him. He specifically stated about the applicant having approached him with a person whom he identified to be the owner of the property and got that document/affidavit executed and notarized. She would also point out that the Notary has specifically mentioned that he was knowing the applicant personally since long. It is thereafter that the Notary has been implicated in the crime. She would therefore submit that at this juncture, there is enough material to *prima facie* reveal involvement of the applicant in forgery. She would submit that custodial interrogation of the applicant, therefore, is highly necessary to complete the investigation.

7. The learned APP would further point out that the very same property was already leased out by the informant owner under an agreement in favour of the applicant Bramhane for a period of 21 years and it was highly unlikely that the informant could have even entered into some oral agreement with the applicant.

8. I have carefully gone through the papers of the investigation. Admittedly, the applicant had applied for the dealership by submitting an online application mentioning the property of the informant as the property where he would set up the outlet. It is also admitted that he himself had

never produced any document with the HPCL. According to the officials of the HPCL it is the other applicant Mr. Bagul who had filed a complaint with the company annexing a photocopy of the alleged forged document.

9. But then the matter does not end here. Simultaneously one needs to bear in mind few other facts. According to the informant and even according to the papers of the investigation it transpires that he had already lease out the property to Mr. Bramhane for a period of 21 years and Mr. Bramhane had applied for the dealership in a similar fashion by showing the self same property as the site for setting up the outlet. If this is so it is really astonishing as to how the informant himself would have allowed the applicant by way of some oral agreement to show the same site for setting up the outlet. At this juncture except the bald statement of the applicant there is no material to show that there was any such oral agreement between the two.

10. Again, pertinently, the forged document is apparently a notarized one. Even before the Notary could be arrayed as an accused an inquiry was made with him and in a statement he specifically stated that he has been knowing the applicant personally since long. It is the applicant who had approached him with a person whom he identified by the name of the informant and it is thereafter that the alleged document was brought into existence, executed and notarized. At this juncture, in the absence of any bad blood or even an allegation on that line between the applicant and the co-accused notary *enter se*, the stand of the latter would carry

importance. He has no reason to falsely implicate the applicant whom according to him he has been knowing since long.

11. Considering all the aforementioned facts and circumstances, when apparently it is a case of forgery and an attempt to cheat, custodial interrogation of the applicant is highly imperative.

12. The application is rejected.

(MANGESH S. PATIL, J.)

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