

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

BAIL APPLICATION NO.1153 OF 2020

Sultan s/o Salemiyan Barabbha = **APPLICANT**

VERSUS

The State of Maharashtra = **RESPONDENT/S**

Mr.H.I.Pathan,Advocate for Applicants;

Mr.SB Narwade,APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI,J.

DATE : 24th February, 2021.

PER COURT :-

1. Present applicant, who is accused No.10 in CR No. 27/2016 dated 28.7.2016, registered with Mandavi Police Station,District Nanded, came to be arrested on 08.1.2018 for the offences punishable under Sections 167, 171, 193, 197, 198, 201, 203, 213, 214, 218, 221, 420, 419, 467, 468, 471, 120(B), 34 of IPC and under Sections 13(1)(a), 13(1)(d), 13(2) and 8 of Prevention of Corruption Act, 1988. He prays for releasing him on bail under Section 439 of Cr.P.C.

2. Heard learned Advocate and learned APP appearing for respective parties.

3. It has been contended on behalf of the applicant that investigation is complete and charge sheet has been filed. Therefore, further physical

custody is not required. His trial has also not started. It has been further contended that the investigation done so far does not attribute any specific role to the applicant. In fact, he has been falsely implicated. Though the investigating authority claims that the applicant had appeared as a dummy candidate for two of the original candidates for examination in their place, however, there is no direct evidence to that effect.

4. As regards the handwriting and signature on the disputed documents are concerned, opinion of handwriting expert does not fully support the prosecution case. Out of the sections levelled against the applicant in the charge sheet, only Section 419 and 120-B could have been made applicable. The evidence of Hand-writing Expert is not against the applicant.

5. The learned Advocate has reiterated that the evidence, that is collected against the applicant for the alleged forgery or fabrication, will not show that those forged or fake documents are in the hand-writing of the present applicant.

6. The learned APP strongly opposed the application and submitted that, the present applicant, by using the Hall ticket of other candidate, had appeared in the competitive examinations as a dummy candidate in order to secure jobs in the Government Departments for other candidates for his monetary benefit. He has

prepared bogus and fake signatures. He has caused the original panchanama to disappear and has destroyed the evidence. He was in the Government service earlier on the post of Sub-Inspector and because of his involvement in the alleged crime, he has been dismissed from service. Further the applicant has prepared fake panchanamas of obtaining specimen signatures. This applicant was in constant contact with other accused as is evidence from the CDR details. Further, though the investigation was done in a limited way earlier; yet it has been now transpired that the present applicant along with co-accused – Dinesh Sonaskar, who was earlier Investigating Officer and Yogesh Panchwatkar, who was the Hand-writing expert in Forensic Science Lab, Aurangabad, had obtained the signatures of real and dummy candidates on specimen signature forms and after destroying the original documents, in order to obtain favourable reports from the Hand-writing expert, they have fabricated the evidence. If the police official himself gets involved in the commission of the crime, then it would lead to anarchy. The magnitude of the offence is large and collection of documents from various Government departments is still going on. Though charge sheet is filed; yet investigation is still in progress under Section 173(8) of Cr.P.C.

7. At the outset, it is to be noted that charge sheet came to be filed before JMFC, Kinwat District Nanded on 5.4.2018 and at that time, there was no offence under the Prevention of Corruption

Act. It came to be added later. It appears, as the investigation is progressed, the earlier investigating officers as well as Hand-writing expert were also made as co-accused. In view of the relevant sections of Prevention of Corruption Act have been added now, the case is before the Special Court under the Prevention of Corruption Act, at Nanded.

8. Earlier Bail Application Nos. 833/2018; 1178/2018 and 438/2019 filed by the present applicant, after the charge sheet was filed, were withdrawn by him from this Court on 10.8.2018; 11.2.2019 and 20.6.2019 respectively. Further BA No. 1175/2019 moved for regular bail was also dismissed as withdrawn. There is no change in the circumstance. Therefore, the application deserves to be rejected.

9. The record shows that informant – Yogesh Jadhav lodged the report with the police, alleging that the present applicant has indulged in appearing competitive examinations, by using the Hall tickets of other candidates, as a dummy candidate, for recruitment of various posts in various Government departments for his monetary benefits. He has altered and tampered the panchanamas, bearing the original signatures and hand-writings; involved in preparing false panchanamas; did participate in the examinations as a dummy candidate, posing himself to be a genuine candidate and thus cheated the Government; He is

also alleged to have been involved in fabricated specimen signatures/hand-writing in preparing the panchanamas. Fabricated documents have been utilized to be the genuine one. Statements of various candidates have been recorded and they have been consistent in saying that the present applicant with co-accused have done all the acts with reference to the alleged crime. When present applicant has been posed as one of the accused and there is *prima facie* evidence against him in the form of statements of the witnesses; seizure of mobile hand-set; various documents are required to be considered. Again, at the cost of repetitions, it can be seen that when at the commencement of the investigation. He has, taking help of the investigating officer as well as Hand-writing expert, managed to destroy certain documents, then definitely the seriousness of the case dis-entitles him from getting relief of bail. The magnitude of the offence is required to be considered. Further, the way or manner in which the crime has been committed, is also required to be considered. The glaring fact that is required to be considered is, that the Investigating Officer as well as Hand-writing expert are now made as accused in the case.

10. It will not be out of place to mention here that entry in Government Service, either by impersonation, cheating or by illegal modes, is highly deprecated and it has to be restricted since inception, as the candidate entered in Government service by any of the modes as above and allowed to

discharge duties, it would be detrimental, dangerous and fatal to the smooth and healthy administration of the concerned department/s and, therefore, crimes of such nature need to be dealt with stern hands in order to send a message to the public at large and refraining themselves to recur such incidents in future.

11. For the reasons enumerated herein above, the application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV