

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

BAIL APPLICATION NO.1394 OF 2020

Prabodh @ Pramod Madhukar Rathod = **APPLICANT**

VERSUS

The State of Maharashtra = **RESPONDENT**

Mr.TM Malnas i/by Adv. Imran Dekshmukh and Anup B.Pande, Advocates for Applicant;

Mr.SB Narwade, APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI, J.

RESERVED ON : 8th February, 2021.

PRONOUNCED ON: 24th FEBRUARY, 2021

PER COURT :-

1. Present applicant, who is accused No.1 in CR No.27/2016 dated 28.7.2016, registered with Mandavi Police Station, District Nanded, came to be arrested on 22.5.2017 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 Prevention of Corruption Act, 1988. He prays for releasing him bail under Section 439 of Cr.P.C.

2. Heard learned Advocates 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. The prosecution story is that the present applicant had provided dummy candidates in the competitive examinations by providing them Hall Tickets and thereafter those persons have secured jobs in the Government Departments. The investigation done so far does not attribute any specific role to the applicant. In fact, he has been falsely implicated. The charge sheet is based on the statement of co-accused, which is inadmissible in law. The Evidence of Hand-writing Expert is not against the applicant. No cash has been recovered from his custody or at his instance. Even the Anti-corruption Bureau conducted the investigation, however, nothing is attributable to the present applicant. Up till now, about 32 accused persons have been released either by Additional Sessions Judge or by this Court and only the present applicant is remained. On the ground of parity, he deserves to be released on bail. In fact, none of the sections, except Section 467 of IPC, can be said to be made applicable to the present accused. The other sections are applicable to co-accused. One of the important ingredients to attract Section 467 of IPC is, 'valuable security'. However, no such document, which amounts to 'valuable security', has been recovered or intended to be recovered from the applicant. The learned Advocates appearing for the applicant 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.

4. The learned APP strongly opposed the application and submitted that, in fact, the present applicant is the master-mind. He has committed the offence of recruitment scam and thereby he has made huge amount. He has provided dummy candidates in place of genuine or real candidates for different examinations held either by the Government or by the Public Service Commission. Definitely, it could not have been free of cost. By such activities, he has provided jobs to various persons in various Government departments. The present applicant has forged the Answer-sheets; recruitment Admission Cards; Attendance sheets; specimen signature forms and other documents for committing the offence. He was in the Government service earlier. 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. That means the present

applicant, when the investigation of the case was pending against him, could influence the Investigating Officer as well as the Forensic Expert and then create evidence. Then definitely after his release on bail, possibility of further tampering with the evidence cannot be ruled out. 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. It can also be seen from the record that though the offence came to be registered on 28.7.2016, he was absconding and could ultimately be arrested on 22.5.2017, i.e. after about a year. Therefore, possibility of he going absconding cannot be ruled out.

5. At the outset, it is to be noted that charge sheet came to be filed before JMFC, Kinwat District Nanded on 18.8.2017 and at that time, there was no offence under the Prevention of Corruption Act added to the case. But, thereafter, it appears as the investigation was in progress, the earlier investigating officer as well as Hand-writing expert were also made as co-accused. The relevant sections of Prevention of Corruption Act have also been added and now the case is before the Special Court under the Prevention of Corruption Act, at Nanded.

6. Earlier Bail application No.498/2018 filed by the present applicant, after the charge

sheet was filed, was withdrawn by him from this Court on 11.1.2019 and copy of the said order would show that after hearing the arguments when the Court had expressed dis-inclination to grant bail, on instructions, the application was withdrawn. There is no change in the circumstance. Therefore, the application deserves to be rejected.

7. If we consider the facts of the case and the record, it appears that one Somnath Abhangrao Parve Patil – co-accused had filed Bail Application No.574/2020 before this Court and by order dated 8th September, 2020, his application has been rejected. It appears that the application was moved for bail in view of directions given on 11.5.2020 by High Power Committee for temporary relief to under-trial prisoners in view of COVID-19 pandemic situation. Still merits of the matter were considered by this Court and the application has been rejected.

8. The record shows that informant – Yogesh Jadhav lodged report with the police that the present applicant, along with co-accused, are indulged in supply of dummy candidates for appearing in competitive examinations for the recruitment of various posts in various Government departments. In order to ensure those dummy candidates to appear smoothly, this applicant with co-accused, fabricated the document. 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 of providing the dummy candidates. When the present applicant has been posed as principal 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 controlled the investigation by taking the Investigating Officer himself towards his side and thereafter taking help of the Investigating Officer as well as Hand-writing expert, it is stated that they have managed to destroy certain documents, then definitely the seriousness of the case dis-entitles him from getting bail.

9. The learned Advocate for the applicant had relied on the decision in the case of Bhausahab Kalu Patil Vs. State of Maharashtra – AIR 1981 SC 80, wherein, it was observed, –“ We do not think that the two certificates, the appellant has been found to have forged to get admission in the Arts and Commerce college, affiliated to Pune University, could be described as ‘valuable security’ as the expression is defined in Section 30 of IPC, and the sentence imposed was set aside.”

10. The important fact, that makes this case different from the case before the Hon'ble Apex court, is the Certificates, which were found to be forged in the case before the Hon'ble Supreme

Court, were used for getting admission in a college. However, in this case, the documents, which are stated to have been forged were Admission Cards/Hall Tickets for the competitive examinations, which was meant for getting recruitment and further it has been lingered to those candidates, who have been given jobs. But, in fact, they had not appeared for the competitive examinations. At this prima facie stage also, it can be seen that the Admission Card/Hall Ticket used for the purpose of competitive examination, is capable of giving him job, which in turn would give him salary and, therefore, it may amount to 'valuable security'. Further, the fact can also be seen from another angle. By providing these forged documents, it is stated that the present applicant has earned huge amount and, therefore, those Hall Tickets or forged documents were capable of earning money for him and, therefore, it would give rise to ingredients of offence under Section 467 of IPC.

11. Further reliance has been placed on Pallavi Sharma Vs. State of Assam - (2019) 4 Gouhati Law Reports 45, wherein, after many months when it was found that the case is not progressing, the bail was granted by Gowhati High Court. This case is also not applicable to the facts of the present case for the simple reason that grant of bail is discretionary. The magnitude of the offence is required to be considered. Further, the way or manner in which the offence 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 and it is stated that it is because of the present applicant.

12. For the reasons stated herein above, the application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV