

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

931 ANTICIPATORY BAIL APPLICATION NO. 1233 OF 2020

**SHIVAJI BABURAO BARGAJE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Advocate for Applicant : Mr. V.S. Undre.
APP for Respondents : Mr. S.W. Mundhe.
Advocate for assist the APP : Mr. Hiraji Gaikwad.

**CORAM : MANGESH S. PATIL, J.
DATED : 05.02.2021**

PER COURT :

Apprehending his arrest in Crime No. 286/2020 registered with Washi Police Station, District Osmanabad, for the offences punishable under Sections 182, 420, 465, 468, 471 of the Indian Penal Code, the applicant is seeking bail in the event of his arrest.

2. In sum and substance, the allegations are to the effect that the applicant has obtained an order of Tahsildar regarding death of one Anna who happens to be grandfather of the informant. It is being alleged that without there being any relation with the deceased the applicant managed to get the death recorded with a wrong date of death. It is thus alleged that he has committed forgery and cheating and has used the forged document.

3. Learned Advocate for the applicant submits that the applicant *bona fide* claims to be the heir (cousin brother) of the deceased Anna Narayan Bargaje. Since death of Anna was not registered under the Registration of Births and Deaths Act, 1969, he approached the Tahsildar under Section 13 (3) of that Act and obtained the order *bona fide* believing that Anna died on 22.09.1975. Though the informant is claiming that Anna having died on some other date, merely by obtaining such an order with a wrong date of death would not be sufficient. He has not independently derived any benefit by obtaining such order by mentioning wrong date of death. Applicant is a seventy years old person. He is ready to co-operate the Investigating Officer and his custodial interrogation is not necessary.

4. Learned APP assisted by the learned Advocate for the informant strongly opposes the application. He submits that the offence is serious. The applicant had no concern with Anna and still managed to solicit this order and on that basis has been filing applications and affidavits. *Prima facie*, it is an offence of preparing false document and using it. His custodial interrogation is therefore necessary and the application be rejected.

5. I have carefully gone through the papers. Accepting the

allegations at their face value at the most it can be appreciated that the applicant is being alleged to have obtained death certificate of Anna with a wrong date of death. It is not being disputed that Anna has died.

6. The dispute as regards the date of death is a matter which will have to be decided in the civil litigation. The point to be considered is as to if by soliciting an order regarding a wrong date of death the applicant was to derive some wrongful gain causing wrongful loss to someone like the informant. Precisely for this reason it was directed by the order dated 13.01.2021, to ascertain if the applicant by posing himself to be the heir, has derived some benefit by mentioning wrong date of death and obtaining the order of the Tahsildar.

7. Except filing these applications for heirship certificate and the death certificate, no material is brought on record to demonstrate any ulterior motive of the applicant to derive any benefit by mentioning wrong date of death.

8. Considering the allegations and all the aforementioned facts and circumstances coupled with the fact that the applicant is a senior citizen who has already been protected by way of ad interim relief,

the discretion deserves to be exercised in his favour.

9. The application is allowed.

10. The ad interim relief granted by the order dated 20.01.2021, stands confirmed with the same terms and conditions.

(MANGESH S. PATIL, J.)

S.P.C.