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

ANTICIPATORY BAIL APPLICATION NO.1398 OF 2021

AKASH KAILASH CHAVAN .. Applicant.

VERSUS

THE STATE OF MAHARASHTRA .. Respondent.

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Advocate for Applicant : Mr. Atul P. Shejul
APP for Respondent: Mr. A.V. Deshmukh

with

ANTICIPATORY BAIL APPLICATION NO. 1491 OF 2021

1] SANDIP PANDURANG MORE

2] SUNIL S/O. PRALHADRAO JADHAV .. Applicants.

VERSUS

THE STATE OF MAHARASHTRA .. Respondent.

..

Advocate for applicant : Mr. K.B. Jadhav
APP for respondent : Mr. A.V. Deshmukh.

CORAM : PRAKASH D. NAIK.

DATE : 16th DECEMBER, 2021.

PER COURT:

1] The applicants in both these applications apprehend arrest in connection with Crime No. 292 of 2021 registered with Jawahar Nagar Police Station, Aurangabad for the offences punishable under sections 420, 465, 467, 468, 471 of IPC. The FIR has been registered on 24.10.2021.

2] The case of the prosecution is that for availing the 5% reservation in Government service for the candidates performing well in sports activities during the year 2016-19, the accused had used

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fabricated documents. The Government jobs were filled by 262 candidates from the sports quota. The candidates have furnished forged certificates issued by Trampoline or Tumbling Sports Authority. The Assistant Director of Sports and Youth Services upon inquiry found that out of 262 candidates, 259 candidates have prepared forged and bogus sports certificates. About 75 candidates have preferred writ petition before the High Court. Excluding those candidates, offence of cheating was registered against 188 candidates.

2] The applicants in both the applications have moved application for anticipatory bail before the sessions Judge. Their applications are rejected by the Court of Sessions.

3] The learned advocate for the applicants in ABA No. 1398 of 2021 submitted that at the time of alleged offence, the applicant was aged about 19 years, Today his age is about 24 years. There are no criminal antecedents against him. He has personally not applied for job nor utilized forged and fabricated documents for seeking employment. His brother Vikas Chavan was arrested. He was in custody. Subsequently, he was granted bail. While in custody, he was interrogated and documents were recovered from him. The applicant and his brother are residing together. Interrogation of the applicant is sought for the same purpose. His brother is already interrogated and subjected to custody and thereafter granted bail. Thus, the applicant need not be subjected to custodial interrogation for the same purpose. The brother-in-law of applicant Akash Chavan was also arrested and he was in custody for substantial period of time and subsequently granted

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regular bail. About 50 accused who are similarly placed had preferred applications for anticipatory bail before the court of session and were granted relief under section 438 of Cr.P.C. Hence, the applicants need not be subjected to custodial interrogation.

4] The learned counsel for applicant in ABA No. 1491 of 2021 submitted that the applicants in the said application are not referred as accused in the FIR. Their custodial interrogation is not necessary. The notice of termination was issued to applicant No.1 which has been challenged before the Maharashtra Administrative tribunal and stay has been granted to the said notice vide order dated 11.5.2021.

5] Other similarly placed persons had preferred applications for anticipatory bail which has been allowed. While allowing the application of the co-accused, the court had observed that they are willing to submit their original certificate. The applicant No.2 Sunil Jadhav had submitted original certificate to his employer, whereas, applicant No.1 Sandip More is willing to submit the original certificate to the I.O.

6] The learned APP submitted that the offence is of serious nature. The accused were involved in fabricating the documents. Other documents were recovered from the arrested accused. The applicant Akash Chavan is the brother of accused Vikas Chavan. During the interrogation of Vikas, he had disclosed the complicity of Akash. The accused were involved in fabricating the documents which were

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utilized by the accused for obtaining job on the basis of sports quota. Applicants in ABA No. 1491 of 2021 are required to be interrogated. Their involvement is disclosed during the course of investigation. The original documents are required to be recovered from them.

7] As stated above, the brother of applicant Akash was arrested. The allegations against him were that he played a role in using fake seals for preparing fabricating the documents. He has committed crime in collusion of the co-accused. He had purchased stamp papers used in the alleged crime for preparation of false and fabricated certificates and its verification. Role of agent was attributed to him along with Government servants specifically in collusion with co-accused Ashok Patange and Ankush Rathod and Rajkumar Mehadwad. It is also alleged that in accordance with memorandum statement recorded under section 27 of the Evidence Act, several documents were recovered. Some important documents were recovered from him. The learned Judge while allowing the application for bail has considered the submissions of prosecution and the say filed by I.O. and observed that further custody of the said applicant is not necessary. He was granted bail by order dated 5.10.2021.

8] The brother in law of applicant Akash was also arrested and granted bail. In the circumstances it is not necessary to subject the applicant Akash Chavan to custodial interrogation. It is also pertinent to note that about 50 persons had applied for anticipatory bail before the court of sessions. All those applications were allowed by the court of sessions, Aurangabad vide order dated 21.11.2020.

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While allowing the application, it was observed that the court has considered the say filed by the prosecution, the recovery of documents and with reference to the objection of prosecution it was observed that points raised by the prosecution do not show that custodial interrogation of the said applicant is necessary. There was no criminal antecedents against them.

9] The applicants in ABA No. 1491 OF 2021 are also entitled for grant of relief under section 438 of Cr.P.C. in view of the facts stated hereinabove. It is also pointed out that the applicant No.1 is willing to submit the original documents to the I.O. The original documents qua applicant No.2 are already with the employer.

10] In the light of aforesaid factual matrix, case for allowing this application is made out.

O R D E R

i] ABA No.1398 of 2021 and 1491 of 2021 are allowed.

ii] In the event of arrest of the applicants in Crime No.292 of 2020, registered with Jawahar Nagar Police station, District Aurangabad, the applicants be released on executing PR Bond in the sum of Rs. 25,000/- each, with one or more sureties in the like amount.

iii] The applicants shall appear before the I.O. on 27th, 28th and 29th December, 2021 between 11.00 a.m. to 1.00 p.m. and thereafter as and when called till filing of charge sheet.

iv] The applications stand disposed of.

**[PRAKASH D. NAIK]
JUDGE.**

grt/-