

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 40 OF 2021

Mahendra Tanaji Kalkutgi	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Ravi Shinde, for the Applicant.
Mr. Ajay Patil, APP for the State/Respondent.

CORAM: SARANG V. KOTWAL, J.
DATE : 15th JANUARY, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 385/ 2019 registered with Bund Garden Police Station, Pune City dated 2nd October 2019, under Sections 420, 466, 468, 471, 167 r/w 34 of the Indian Penal Code and under Sections 65 and 66 of the Information Technology Act, 2000.

2. The FIR is lodged by one Mahesh Devakate who is working as Assistant RTO at Pune. In the inquiry it is revealed that certain record in respect of some vehicles were changed. Instead of Tourist vehicles, status was

changed into the private vehicles by giving different numbers. This was done so that benefit was given to those vehicle owners for not paying taxes, fees for transfer etc. The allegations in the FIR are that this record could be changed by Senior Clerk Ghanshyam Dayama by using ID and password. On this basis the FIR is lodged.

3. Heard Mr. Ravi Shinde, the learned Counsel for the Applicant and Mr. Ajay Patil, learned APP for the State.

4. The learned Counsel for the applicant submitted that investigation pertains to documentary evidence and record of Computer which is already seized by the police. The applicant is ready to co-operate with the investigation. He submitted that the password and user ID has to be changed after three months. He submitted that power to change the record was only with Senior Clerk Dayama and therefore, applicant himself

could not have committed this offence. He submitted that Dayama is granted anticipatory bail. He further submitted that confidential report of this applicant is clear since last many years and since he is in service, it will cause great prejudice to him if his application is rejected.

5. The learned APP opposed this application and submitted that investigation is made against Sandip Udamale who was an agent. His investigation showed that the applicant's complicity is not restricted to the allegations in the FIR but he was involved in malpractices for many years. Investigation of co-accused Udamale has revealed that the present applicant alongwith Udamale used to help other offenders in preparing and furnishing duplicate R.C. book and smart cards. Udamale's interrogation reveals that applicant and Dayama used to tamper with the record of the vehicles which are mentioned in the FIR. Learned A.P.P further submitted that Dayama was granted anticipatory bail because the Investigating agency has fairly made a statement that

because of his health condition, his custodial interrogation was not necessary if he co-operated with the investigation. Learned A.P.P. however, objected to grant of relief in this application.

6. I have considered these submissions. The allegations in the FIR are serious. Co-accused Dayama is granted protection of anticipatory bail. It was clarified in the order that only because of his serious health condition and the statement made by the investigating agency, order was passed in his favour. The allegations against the applicant are not restricted to the subject matter of the FIR. Co-accused Udamale has revealed deeper malpractices indulged in by the present applicant. The applicant has given smart card registration books to some persons who wanted to misuse them in illegally transferring the vehicles. The applicant had also access to the record of the vehicles and he had his own password and log in identity.

7. Considering the seriousness of the allegations, applicant's custodial interrogation is necessary. He cannot claim parity with co-accused Dayama because as mentioned earlier, Dayama was essentially protected because of the statement made by the Investigating Agency. The applicant is still in service in the RTO and therefore his custodial interrogation is necessary to find out exact nature of the fraud committed by him.

8. In view of this discussion, applicant cannot be granted protection of anticipatory bail and therefore application is rejected.

(SARANG V. KOTWAL, J.)