

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

ANTICIPATORY BAIL APPLICATION NO.51 OF 2021

Faim Abdul Sattar Arkar Applicant
Versus
The State of Maharashtra Respondent

Mr. Mahesh Vishwakarma, Advocate for the Applicant.
Smt. A.A. Takalkar, APP for the Respondent-State.
HC Shri Sagar A. Ashtamkar, Mahad MIDC Police Station,
Raigad is present.

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

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.62/2020 registered at Mahad MIDC Police Station, District – Raigad on 6.12.2020 under Sections 193, 196, 198, 199, 420, 464, 465, 468, 469 and 471 of the Indian Penal Code.

2. The FIR is lodged by one Abdul Gafoor Arkar. He has stated in his FIR that his brother Nazir Arkar was residing at Banglore with his second wife and a son. Nazir Arkar's first wife and five children were residing at Kumbharwada. City Survey

No.1267 at Birwadi village was in possession of Nazir Arkar. The record shows that the particular property was owned by Grampanchayat Birwadi; and in the column of 'other rights', Nazir Arkar's name was entered. The allegations in the FIR are that the Applicant submitted a false death certificate and false affidavit to get his name replaced in place of Nazir Arkar in the records. The Applicant was very much aware that Nazir Arkar was alive and the Applicant has no connection with this land. On this basis, the FIR is lodged.

3. Heard Shri Mahesh Vishwakarma, learned Counsel for the Applicant and Smt. A.A. Takalkar, learned APP for the State.

Submissions :

4. Learned Counsel for the Applicant submitted that the property always stood in the name of Grampanchayat and only in the column of 'other rights' the name of Nazir Arkar was mentioned, which was replaced by the Applicant's name. He submitted that, therefore, no loss was caused to anybody and

there was no illegal gains to the present Applicant.

5. He submitted that the Applicant himself thereafter filed an appeal so that his name is removed. That Appeal was allowed and finally his name was removed. He, therefore, submitted that the Applicant has not committed any offence. The disputed death certificate was given to him by his Partner and the Applicant has no role to play in creating a forged document.

6. He submitted that since no loss was caused to anybody, the Applicant deserves anticipatory bail. He further submitted that as far as Sections 193, 196 etc. of IPC are concerned, the complaint should have been filed by the respective Departments and not by a private party.

7. Learned A.P.P., on the other hand, opposed this Application. She submitted that the offence is serious and the Applicant has filed not only false affidavit, but, has tendered a forged document, i.e. death certificate, to his knowledge. The Applicant has done it so that the land was transferred in his

name.

8. She submitted that considering the seriousness of the offence, it is necessary that the Applicant's custodial interrogation is carried out so that the nature of the forgery and the manner in which it was committed can be established. She submitted that no case is made out by the Applicant and, therefore, the application may be rejected.

Reasons :

9. I have considered all these submissions. It is beyond doubt that a forged and false death certificate was submitted to the authorities in respect of death of one Nazir Arkar, who was very much alive. An affidavit to that effect was also tendered by the Applicant. Affirming a false document and using it itself is a serious offence. These documents were actually used. Subsequently, as an afterthought, the Applicant has filed an Appeal for removing his name, but, that will not wipe out the offence committed by the Applicant. The submission that no loss is caused to anybody has no substance

because it is obvious that all these acts were committed so that the Applicant gets some right in respect of said property.

10. Considering the seriousness of the offence and forgery of important documents, the Applicant's custodial interrogation is necessary. Therefore, the Applicant cannot be protected by an order of anticipatory bail. The Application is rejected.

Pradeepkumar
P. Deshmane

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Deshmane
Date: 2021.01.16
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(SARANG V. KOTWAL, J.)

Deshmane (PS)