

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

ANTICIPATORY BAIL APPLICATION NO. 634 OF 2021

Viraf Rusi Vatcha ... Applicant

Versus

The State of Maharashtra ... Respondent

**WITH
INTERIM APPLICATION NO. 922 OF 2021**

Nandjee Prasad ... Applicant

IN THE MATTER BETWEEN :-

Viram Rusi Vatcha ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Sudeep Pasbola and Mr. Karl Rustomkhan, Advocate for the Applicant.

Mr. A. R. Kapadnis, APP for the Respondent – State.

Mr. Nikhil Chaudhary, Advocate for the Intervenor.

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CORAM : PRAKASH D. NAIK, J.

DATE : 6th APRIL, 2021

PER COURT:

1. This is an application under Section 438 of Code of Criminal Procedure. The applicant apprehends arrest in C.R. No. 50 of 2019 registered with M.R.A. Marg Police Station, Mumbai for offences under Sections 465, 468, 471, 419, 420, r/w Section 34 of

Indian Penal Code. The First Information Report (for short “FIR”) was registered by Nandjee Parshuram Prasad on 19th February, 2019.

2. The case of the prosecution is as under :-

a) The complainant is the General Secretary of All India Karate-Do Federation since 15th February, 2013. The registered office of the federation is at Nagindas Master Road, Fort, Mumbai. The Federation is registered under the Societies Registration Act. It is also registered as Trust under the Bombay Public Trust Act at the office of Charity Commissioner. The main object of the trust is to promote the sport of Karate as National Sport and to get recognition and develops sports persons for their participation in Asian and Olympic games.

b) From 1987 to 2013 the Federation had recognition from Indian Olympic Association (IOA) and Ministry of Sports.

c) On 11th April, 2006 the Federation had elected 7 persons by conducting election as President, General Secretary, three Vice-president, Treasurer and director.

d) There were disputes between elected members of the committee. Hence, President Rameshwar Nirwan, Treasurer Bharat Sharma, General Secretary – P. R. Ramesh and others conducted two separate elections and created three working bodies of the federation. For the purpose of recognition, two separate working bodies preferred applications before the Charity Commissioner, Mumbai. By

order dated 28th December, 2012, the Charity Commissioner set aside the election and directed the Federation to hold fresh election within 60 days. On 15th February, 2013, the federation conducted fresh election. The said elections were supervised by the representatives of the Sports Ministry, Government of India and Charity Commissioner. The report was submitted to the Charity Commissioner. The elected committee comprised of Rameshwar Nirwan as president, Nandjee Prasad as General Secretary, Mahesh Kumar as Treasurer and 12 other members. Bharat Sharma was not elected. Bharat Sharma and K. R. Thiagarajan were not members of the committee.

e) On 22nd July, 2013, Mr. K. R. Thiagarajan misrepresented himself as president of All India Karate-Do Federation and by using the letter head of the Federation submitted letter to World Karate Federation. Without any legal authority he changed the name of All India Karate-Do Federation as Karate Association of India and obtained recognition letter from World Karate Federation. While submitting documents along with aforesaid letter, he had not obtained approval of All India Karate-Do Federation. Mr. Thiagarajan did not have any authority to issue such letter to World Karate Federation and without authority he used the letter head of the Federation by pretending himself as president and obtained recognition from World Karate Federation.

f) In the letter of recognition obtained from World Karate Federation, reference is made to Mr. K. R. Thiagarajan as president and Mr. Bharat Sharma as Secretary. The recognition letter obtained from World Karate Federation was submitted to Sports Ministry, Government of India and obtained recognition of Government of India. Since the approval was obtained on the basis of false documents, the aggrieved persons made representation to Sports Ministry, Government of India, New Delhi. The Ministry of Sports, Government of India appointed one member committee for conducting inquiry. The committee conducted inquiry and submitted report stating that the federation was registered by incorrect method. The report was submitted to Sport Ministry, Government of India. Even, thereafter, the Sports Ministry, gave recognition.

g) The recognition letters were obtained on the basis of false documents. Mr. K. R. Thiagarajan, Mr. Bharat Sharma, Mr. Viraf Vatcha (applicant) were aware that they are not members of the federation and that Karate Association of India is a company and in spite of that by misusing the letter head of the federation, documents were submitted to World Karate Federation and obtained recognition and thereby cheated by All India Karate-Do Federation as well as Government of India. They have availed all the facilities, funds from the Government.

3. The applicant preferred an application for anticipatory bail before the Sessions Court, Greater Bombay. The said application was rejected by order dated 5th March, 2021.

4. Learned Advocate for the applicant submitted that in 2010, Indian Olympic Association (IOA) and World Karate Federation (WKF) recognized K. R. Thiagarajan as President and Bharat Sharma as General Secretary of the All India Karate-Do Federation. The Ministry of Sports accepted the recognition of Indian Olympic Association and World Karate Federation and acknowledged Mr. K. R. Thiagarajan as President and Mr. Bharat Sharma as General Secretary of the All India Karate-Do Federation. There were differences between the members of the federation. There were factions between the members. They formed groups. They submitted respective change reports to the Charity Commissioner. The representation filed by the two factions were rejected and the Charity Commissioner directed them to hold fresh election. Thereafter, elections were conducted. On 22nd July, 2013, All India Karate-Do Federation held the meeting at New Delhi to take decision and to put an end to the confusion created by office bearers by holding multiple elections. It was decided that the name and form of All India Karate-Do Federation will be changed the Karate Association of India. Mr. K. R. Thiagarajan and Mr. Bharat Sharma will be authorized to register Karate Association

of India. The applicant has relied upon the minutes of the meeting dated 22nd July, 2013. The applicant had attended the meeting as representative of Maharashtra Karate Association. Mr. K. R. Thiagarajan issued a letter to President of World Karate Federation about the meeting that took place on 22nd July, 2013 and the decision taken by the federation. Recognition was sought from World Karate Federation. Certificate was issued on 10th September, 2013 by World Karate Federation, stating that the Karate Association of India headed by Mr. K. R. Thiagarajan and Mr. Bharat Sharma is the only National Federation of Karate Sports entitled to participate in World Karate Federation events representing India. Vide letter dated 27th December, 2013 World Karate Federation also informed the Ministry of Sports that they had given recognition to Karate Association of India headed by Mr. K. R. Thiagarajan. The Karate Association of India was registered under the Companies Act on 26th September, 2013. The Karate Association of India was granted recognition by Sports Ministry, Government of India on 12th February, 2014. The elections were conducted on 28th July, 2014. The applicant was appointed as Treasurer of Karate Association of India. The applicant has placed on record letter dated 23rd March, 2021 submitted by applicant to the Investigating Officer about his statement for investigation with relevant documents.

5. It is further submitted that, All India Karate-Do Federation through faction led by Rameshwar Nirwan preferred Writ Petition No. 9789 of 2015 before the High Court of Delhi seeking directions to restore recognition of All India Karate-Do Federation. The Petition was disposed of with directions that parties may send their respective representation to the Ministry and that the Ministry shall take a decision. The Ministry received representations from three separate factions. Vide order dated 28th October, 2016, it was held that the recognition granted to Karate Association of India as National Sports Federation was just and essential to ensure participation of Indian Athletes in International events and that the recognition of Karate Association of India as a Sports Federation will continue for the year 2016 and there are no grounds to review the decision. The All India Karate-Do Federation also preferred petitions before the High Court of Bombay for restoration of its recognition. However, no relief was granted to them. The All India Karate-Do Federation also challenged the decision of World Karate Federation revoking its recognition before the Court of Arbitration for Sports. The appeal was dismissed vide award dated 29th January, 2015. The Karate Association of India filed the suit seeking injunction against All India Karate-Do Federation, the complainant and the representatives of the other factions restraining them from

conducting or organizing any events, championship, tournaments etc. Vide order dated 28th March, 2017, the District Court at Tis Hazari passed Decree in favour of Karate Association of India and observed that it is the only recognized Sports Federation.

6. Notice dated 10th March, 2019 under Section 41-A of Cr.P.C. was sent to the applicant. He had appeared before M.R.A. Marg Police Station on 15th March, 2019 and tendered the written statement. The applicant again received notice dated 27th February, 2020. Since he was travelling, he could not remain present and tendered the written statement vide letter dated 27th February, 2020 to M.R.A. Marg Police Station. The change report dated 25th February, 2013 is relied upon by the complainant to establish his authority as General Secretary of All India Karate-Do Federation is stayed by the High Court of Bombay vide order dated 8th January, 2020. Vide letter dated 11th October, 2016, the group of All India Karate-Do Federation stated that the Emergency Governing Body meeting decided to cease the membership of complainant as member of federation and governing body. The letter also states that the complainant have no authority to act on behalf of All India Karate-Do Federation.

7. It is submitted that the applicant has been falsely implicated in this case. The dispute is of civil nature. The FIR has been registered 6 years after the grant of recognition to All India

Karate Association. The applicant has cooperated with investigation. Custodial interrogation of the applicant is not necessary. The applicant was Treasurer during the period from 2013 to 2018. He was elected as director on 8th February, 2019. He is not signatory to the alleged forged document. The entire case relates to documents. Registration of FIR is *malafide*. There is no element of cheating or forgery. The complainant and his faction has not succeeded in obtaining any order from World Karate Federation, Sports Ministry and the Courts and has now resorted criminal proceedings.

8. Learned APP submitted that the offence is of serious nature. The letter head of All India Karate-Do Federation was misused by K. R. Thiagarajan. He pretended himself to be president of the Federation and obtained recognition. The fabricated letter dated 22nd July, 2013 was not pointed out to Sports Ministry. The applicant has acted in connivance with K. R. Thiagarajan and other accused. False documents were utilized for obtaining the recognition for All India Karate Association. The investigation revealed that the applicant had obtained the amount of Rs.1 Lakh from Salauddin Ansari for enrolling him as member of the Federation. Receipt was not issued to him. The applicant has acted in connivance with others and obtained fees from Sandip Manchindra Gade for the year 2015-16 in the sum of Rs.10,000/- per year and no receipt was issued to

him. The applicant had collected the amount towards fees and issued certificate of membership to the members. The receipt regarding payment was not issued. Custodial interrogation of the applicant is necessary. Funds are obtained by the association from the Government. Various facilities are also availed by the accused. The amount was obtained by cash for enrolling the members. The applicant has not cooperated with the investigation. In spite of issuing notice under Section 41-A of Cr.P.C. the applicant has not cooperated. It is submitted that during investigation, statement of Bharat Sharma has been recorded. It was revealed that Mr. K. R. Thiagarajan has forwarded letter dated 22nd July, 2013 by using letter head of All India Karate-Do Federation to World Karate Federation. Custodial interrogation of the applicant is necessary.

9. Learned advocate for the intervenor/complainant submitted that the recognition of Karate Association of India was obtained by using false documents. The letter head of Karate Association of India was misused by K. R. Thiagarajan, claiming himself to be president of the federation. He had no authority to do so. He was not a member of All India Karate-Do Federation. The All India Karate-Do Federation is the supreme body of Karate Association of India. It is registered under the Societies Act and Public Trust Act. It is the only Karate Federation recognized by the Government of

India as national sports federation for Karate in 1987 and Indian Olympic Association in 2001 and World Karate Federation in 1978. The All India Karate-Do Federation was registered on 30th March, 1978. Mr. K. R. Thiagarajan and Bharat Sharma were not elected. They were not part of elected committee. Mr. K. R. Thiagarajan addressed letter to World Karate Federation and represented himself to be president of All India Karate-Do Federation with ulterior motive and *malafide* intention. He had no authority to address such letter. The motive was to gain monetary benefits and usurp the goodwill of All India Karate Federation. Mr. Thiagarajan also misrepresented the Government of India and Indian Olympic Association. The offence is of serious nature. Huge funds are accepted towards membership without issuing any receipts. The applicant was acting in connivance with the co-accused. Learned Advocate relied upon list of documents viz. order dated 28th December, 2012 passed by Deputy Charity Commissioner, Mumbai, declaration of results of elections, letter dated 11th July, 2013, letter addressed by World Karate Federation dated 10th September, 2013 and letter dated 18th March, 2018 authorizing the complainant to lodge the FIR. He also relied upon the bank statements of Federal Bank with regards to the account of Karate Association of India.

10. By way of rejoinder learned counsel for the applicant

submitted that the order dated 28th October, 2016 issued by Ministry of Youth Affairs and Sports has dealt with the alleged irregularities regarding the letter dated 27th December, 2013. Paragraph-19 of the said order mentions that the World Karate Federation, the international body for Karate Sports vide letter dated 27th December, 2013 informed that the Karate Association of India headed by president Mr. K. R. Thiagarajan and General Secretary Mr. Bharat Sharma is the full member of World Karate Federation and the only National Federation for Karate Sports in India. It was informed that it had cancelled all previous memberships/recognition letters with immediate effect and only Karate Association of India is entitled to participate in World Karate Federation events representing India. Learned counsel for the applicant also relied upon the compilation of documents relating to recognition letters from Indian Olympic Association, Ministry of Youth Affairs and Sports, World Karate Federation and Karate Association of India. The documents also included list of directors of Karate Association of India, Memorandum of Association of Karate Association of India, declaration by Mr. Bharat Sharma. Balance sheet of Karate Association of India for the year 2014-2019, etc. It is also submitted that Bharat Sharma was arrested and he has been granted bail by learned Additional Chief Metropolitan Magistrate by order dated 26th February, 2021.

11. I have perused the FIR and the other documents. The FIR was lodged on 19th February, 2019. The complainant is General Secretary of All India Karate-Do Federation. The primary grievance of the complainant as apparent from the FIR is that All India Karate-Do Federation is a registered federation under the Societies Registration Act and Bombay Public Registration Act. On 22nd July, 2013, K. R. Thiagarajan forwarded letter to World Karate Federation. The accused has used letter head of All India Karate-Do Federation to claim himself as President of the said federation. It is alleged that the accused had no authority to issue such letter. It is pertinent to note that the World Karate Federation issued certificate dated 10th September, 2013 stating that the Karate Association of India headed by President Mr. K. R. Thiagarajan and General Secretary Mr. Bharat Sharma is the full member of World Karate Federation and the only National Federation of Karate Sports entitled to participate in World Karate Federation events representing India. The certificate also mentions that all previous membership/recognition letter stands cancelled with immediate effect. The World Karate Federation then informed the Ministry of Youth Affairs and sports that recognition has been granted to Karate Association of India. The Karate Association of India was also granted recommendation by Ministry of Youth Affairs on 12th February, 2014. Thereafter, elections were conducted.

The documents placed on record indicate that the parties have approached the High Court of Delhi. Representations were made to the Sports Ministry. Petitions were filed in the High Court of Bombay. After a period of about 6 years, the FIR has been lodged by the complainant. The applicant has contended that Mr. K. R. Thiagarajan was recognized as President by Indian Olympic Association and World Karate Federation. Meeting was held at New Delhi on 22nd July, 2013 to take decision to put an end to confusion created by the office bearers by conducting multiple elections. The applicant had annexed the minutes of the meeting of the said association held at New Delhi on 22nd July, 2013. The meeting was attended by Mr. Bharat Sharma, Mr. K. R. Thiagarajan and various other persons. The minutes mentioned that the members attended the meeting and after discussion about litigation and confusion created by office bearers by conducting elections it is resolved that, the members mentioned therein shall not have anything to do with All India Karate-Do Federation and decided to work under new umbrella organization, which will be registered National federation for Karate Sports in the name of Karate Association of India and authorized Mr. K. R. Thiagarajan and Mr. Bharat Sharma to register the Karate Association of India under the Companies Act. The minutes contained signatures of about 26 members. They are representatives of their respective

associations of their states. Representations were also made to the Ministry of Sports. The order passed by the Ministry dated 28th October, 2016 is annexed to this application. The subject before the Ministry was grant of recognition to Karate Association of India. Paragraph – 16 of the said order mentions that Mr. K. R. Thiagarajan was president of All India Karate-Do Federation and was recognized by the Ministry. The World Karate Federation had cancelled previous membership and granted affiliation/ membership to Karate Association of India as the only National Federation for Karate. Paragraph – 27 it was observed that All India Karate-Do Federation presently does not have the recognition of the World Body. Grant of recognition of All India Karate-Do Federation does not arise on two counts as it does not have recognition of World body and there are more than one claimant of the said organization. Karate Association of India is recognized by the World Body and is authorized to sent Indian teams for World Karate Federation sanctioned events. Both the sides have raised disputes. It is now contended that fees were collected towards membership and without issuing receipts. The applicant has cooperated with the investigation. He has submitted written explanation. Considering the nature of dispute between the parties, the custodial interrogation of the applicant is not necessary. The matter relates to document, the dispute about recognition has

arising since 2013. The FIR relates to the alleged letter submitted by the co-accused K. R. Thiagarajan. Learned counsel for the applicant submitted placed on record letter dated 2nd January, 2008 issued by the Indian Olympic Association stating that, All India Karate-Do Federation is headed by Mr. K. R. Thiagarajan as president. Mr. P. R. Ramesh as General Secretary and Mr. Bharat Sharma as Treasurer is recognized by Indian Olympic Association. The certificate dated 28th March, 2008 issued by World Karate Federation mentions that the All India Karate-Do Federation having president Mr. K. R. Thiagarajan and General Secretary Mr. P. R. Ramesh is a full member of World Karate Federation and only National Federation entitled to participate in World Karate Federation events. He also pointed out the letter dated 5th June, 2016 issued by Karate Maharashtra to President of Karate Association India, Adyyar, Chennai about complaint against Mr. Salauddin Ansari and Mr. Sandip Gade regarding disturbing the working of the said association of Maharashtra, misguiding parents, students and instructors against legal state body and making false Police complaints against the office bearers of state body and Karate Association of India. The certificate of World Karate Federation dated 10th September, 2013 mentions that Karate Association of India headed by president Mr. K. R. Thiagarajan and General Secretary Mr. Bharat Sharma is the full of member of World Karate Federation

and the only national Federation of Sports entitled to participate in World Karate Federation events representing India. Custodial interrogation of the applicant is not necessary. The applicant is not signatory to disputed document dated 22nd July, 2013. Taking into consideration the aforesaid circumstances, the application is allowed. The observations made in this order are prima facie for deciding this application. Hence, I pass the following order :-

ORDER

- (i) Anticipatory Bail Application No.634 of 2021 is allowed and disposed of;
- (ii) In the event of arrest of the applicant in connection with in C.R. No. 50 of 2019 registered with M.R.A. Marg Police Station, Mumbai, the applicant be released on bail on executing P R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount;
- (iii) The applicants shall attend the investigating officer on 19th, 20th & 21st April, 2021 between 11.00 a.m. to 1.00 p.m. and thereafter as and when called for till filing of charge-sheet.
- (iv) Interim Application No. 922 of 2021 is disposed of.

(PRAKASH D. NAIK, J.)