

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

ANTICIPATORY BAIL APPLICATION NO.863 OF 2021

Sohail Gulmohammad Shaikh (Bagwan) Applicant

versus

State of Maharashtra Respondent

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- Mr.Sushant Prabhune, Advocate for Applicant.
- Mr.Ajay Patil, APP for the State/Respondent.
- Mr.Rahul Kadam, Advocate for complainant.

CORAM : SARANG V. KOTWAL, J.

DATE : 24th MARCH, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.160/21 registered with Baramati City Police Station on 05/03/2021, under sections 371, 420, 465, 466, 467, 468 of the Indian Penal Code.
2. Heard Mr.Sushant Prabhune, learned counsel for the Applicant, learned Counsel Mr.Rahul Kadam for the complainant and Mr.Ajay Patil, learned APP for the State.

3. The FIR is lodged by one Salimfakir Mohammad Bagwan. He has stated in his FIR that he was knowing one Salim Dastgir Bagwan, who is father-in-law of the present Applicant. There was some dispute between the Applicant and his wife i.e. daughter of Salim Dastagir Bagwan. The informant was told by the Applicant's father-in-law that the Applicant was in the illegal business of creating forged documents and taking money from people on the promise that their plots of land would be converted into N.A. The Applicant's father-in-law had also fallen prey to his activities. On 31/01/2020 the Applicant's father-in-law sent a photograph of a letter issued in favour of the Applicant. It was a forged letter. In that letter it was mentioned that the plot No.G-35 at Industrial area in Katphal, Taluka Baramati, District Pune, was to be transferred in the name of the present Applicant. It was originally belonging to the Applicant's father-in-law. This letter was forged. The informant was shown that particular letter by the Applicant himself. However that letter was not handed over to him. The informant submitted that the copy of that letter to the Marine Drive Police Station in

respect of the enquiry. The informant had got information through Right to Information Act, that no such letter was sent by the ministry. On these allegations, the informant's case is that the Applicant had created a forged letter and kept it with himself for cheating purposes. On this basis FIR is lodged.

4. Learned counsel for the Applicant submitted that no such letter is in existence. He is framed in this case. He submitted that the Applicant has been making complaints about the mismanagement of "Darul Ulum Maulana Yunusia" which is a charitable trust. The present informant is one of its members and therefore the Applicant is falsely implicated in the present case. He submitted that his father-in-law has filed an affidavit in the Court of Judicial Magistrate First Class, that some unknown person had kept that letter at his gate. Learned counsel for the Applicant therefore submitted that it was a clear attempt to frame the present Applicant by using that letter.

5. Learned APP as well as learned counsel for the Intervenor/original complainant opposed this application.

According to them it is beyond doubt that the letter in question was a forged letter. The beneficiary of that letter was none other than the Applicant. Therefore the matter requires investigation and for that, custody of the Applicant is necessary. Both of them submitted that the Applicant's past conduct shows that he has criminal tendencies and there are similar offences of forgery committed by him.

6. I have considered these submissions. Before relying on the antecedents and past conduct of the Applicant, it is necessary for the investigating agency to see the Applicant's connection with the present offence.

7. It is without doubt that the letter in question was a forged letter and it was not signed by the minister in question. However, the original of that letter is not available. Learned counsel for the informant's contention is that it must be with the Applicant. However, a copy of that letter is already given by the informant to the Marine Drive police station. Assuming that it is

in existence, it is not used by the Applicant in any manner. Therefore offence in this case does not travel beyond section 465 of the IPC, which is a bailable offence. That letter was not actually used to create any right in favour of the present Applicant. In any case that would not have created any right in favour of the Applicant in the absence of the concerned documents executed by the owner of that plot itself. In this view of the matter, sufficient doubt is created against the investigation and allegations made against the present Applicant. This has to be looked at, from the angle of previous enmity between the parties and steps taken by the Applicant against that particular trust, of which the informant is a member. Therefore in this background, custodial interrogation of the Applicant is not justified. He deserves protection of the anticipatory bail. However, he will have to attend the concerned police station to cooperate with the investigation.

8. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.160/21 registered with Baramati City Police Station, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)