

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

BAIL APPLICATION NO. 2267 OF 2021

Ishtiyak Ahmad Irshad Ahmad	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr. Mahendra N. Sandhyanshiv for the Applicant.
Mrs. P.P. Shinde, APP for the Respondent -State.

**CORAM : V. G. BISHT, J.
RESERVED ON : 18th NOVEMBER 2021
PRONOUNCED ON : 26th NOVEMBER 2021**

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.I-36 of 2020 registered with Police Station Ayeshanagar, Malegaon, Nashik, for offences punishable under Section 420, 465, 466, 468, 471 read with 34 of the Indian Penal Code (IPC), Section 12(B) of the Passport Act, Rules 3 and 6 of Passport (Passport into India) Rule, 1950, Clause 3(i) of Foreigner's Citizen Order, 1948, Section 14(2) of the Foreign Citizen Act, 1946 and Rule 2 of Report of Police Rule, 2001.

2 The prosecution case is that accused no.1, namely, Tahir Ali Yusuf Ali, having citizenship of Bangladesh from 1st October 2020 till the filing of complaint with the help of other accused namely Alam Amin Ansari, Shaikh Ashpak Shaikh Munaf Kureshi, Ekhlague Ahmed Mohd. Mustafa, Shaikh Imran Shaikh Rashid, Iqbal Khan Munnir Khan, Lalit Nana Marathe, Zakir Ali Abdul Majid Khan, Ishtiyak Ahmed Irshad Ahmed (present applicant), Ullas Shankarro Mahale, Zahir Hashim Hashim Haniba and Nisar Abdulla got false and forged documents prepared viz., (a) Sheshan Card (SHE 7371388 (b) Birth Certificate issued by Malegaon Municipal Corporataion, (c) Aadhar Card No.400684104781 (d) Post Office Saving Accounts Pass Book A/c. No.4908984806 etc. showing him to be resident of Malegaon and on the basis of these documents prepared forged passport bearing No.U5005595. In the wake of these allegations, the applicant came to be arrested and the First Information Report (FIR) was registered against all the abovenamed accused.

3. Mr.Sandhyanshiv, learned counsel for the applicant-accused, submits that the main accused is already admitted on bail and the present applicant-accused is also similarly situated and therefore, he deserves parity. Moreover, the charge-sheet has already been filed. Therefore, no useful purpose would be served by keeping the applicant-accused in jail. Learned Counsel also placed on record the orders given by this Court in **Zakir Ali Abdul Majid Khan V/s. The State of Maharashtra¹**, **Shaikh Imran Shaikh Rashid Versus The State of Maharashtra²** and **Ulhas Shankarrao Mahale Versus The State of Maharashtra³** in support of the ground of parity.

4 Per contra, Mrs. Shinde, learned APP, opposed the submissions by contending that the applicant-accused was knowing that the other accused namely, Alam Amin Ansari, was Bangladeshi national and despite that the applicant along with others illegally helped him for forging passport and other documents. The nature of offence being serious, the application

1 Bail Application No. 1640 of 2021 dated 26th October, 2021

2 Criminal Bail Application No. 2619 of 2021 dated 30th September, 2021

3 Criminal Bail Application No. 580 of 2021 dated 7th October, 2021

deserves to be rejected, argued learned APP

5 I have gone through the investigation papers. Almost all the statements recorded by the Investigating Officer are that of Police personnel. It is also not in dispute that the investigation is over and the charge-sheet has already been filed. The filing of the charge-sheet itself shows the seizure of necessary documents allegedly forged and fabricated by the applicant and other accused. Having regard to the facts and circumstances of the case, in my considered opinion, the detention of the applicant is not necessary. Hence the following order :

ORDER

- (i) Applicant – Ishtiyak Ahmad Irshad Ahmad shall be released on bail in C.R.No.I-36 of 2020 registered with Police Station Ayeshanagar, Malegaon, Nashik, on his executing P.R.Bond in the sum of Rs.20,000/- with one or two sureties in like amount.
- (ii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted

with facts of case and shall not tamper with prosecution evidence.

(iii) The applicant shall attend the concerned Police Station on the first Monday of every month, till the Charge is framed.

(iv) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(v) The application is allowed in the aforesaid terms.

(V. G. BISHT, J.)

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