

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

ANTICIPATORY BAIL APPLICATION NO.2217 OF 2021

Afsar Aslam Khan

.. Applicant

Vs.

The State of Maharashtra

.. Respondent

...

Mr.Samir Pradhan, Advocate for Applicant.

Mr. R.M. Pethe, A.P.P. for the Respondent-State.

PI. S.T. Chavhan, Nirmal Nagar police station, present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 14th SEPTEMBER, 2021

PC.

1. This is an application for anticipatory bail in connection with C.R. No.216 of 2019 registered with Nirmal Nagar Police Station for the offence punishable under Sections 465, 466, 467, 468, 471, 473, 474, 420 read with Section 34 of the Indian Penal Code.

2. The prosecution case relates to production of fake surety by relying upon fabricated documents. The accused Mohd. Rehand Shakil Ahmed Khan was arrested on 09.07.2021. He was produced before the Court of learned Magistrate for remand on 10.07.2021. Considering the nature of allegation, he was remanded to police custody. He was again produced for second remand on 14.07.2021. The said remand application mentioned

that during the course of investigation the arrested accused has disclosed that at the instance of the applicant, Mr. Nalawade has produced two sureties namely Akbar and Arshad. In view of the said disclosure, the applicant was sought to be arrested.

3. The applicant had preferred application for anticipatory bail before the Session Court, which has been rejected by order dated 08.09.2021.

4. Learned counsel for the applicant submits that applicant is presently advocate practicing in the Court. No overt act of fabricating documents or producing the false sureties is attributed to him. There are no criminal antecedents against the applicant. In the first remand application, the applicant was not named as suspect. Custodial interrogation of the applicant is not necessary. He is willing to co-operate with the investigation.

5. Learned APP submitted that custodial interrogation of the applicant is necessary in the light of statements of the co-accused and the witnesses recorded during the course of investigation. The complicity of the accused involved in this crime could be revealed through the custodial interrogation of the applicant. The statements of the advocate who represented the surety was recorded and she has named the applicant as a person who was involved. The accused No.1 has also attributed

overt act to the applicant. The sureties were armed with false documents. The statements of witness and the co-accused indicate that the applicant has represented himself as an advocate.

6. I have perused the documents. The applicant has no criminal antecedents. In the remand application and the statements recorded during the course of investigation, reference is made by witness that the applicant had not acted as an advocate by signing surety form or any other documents submitted for furnishing surety. The accused No.1 was arrested and produced for remand before the concerned Court. The first remand application is silent about the role played by the applicant. The second remand application and the statements of the witnesses recorded during the course of investigation indicate that co-accused Nalawade who is absconding has brought two sureties. The applicant is not involved in fabricating documents. In the light of factual aspects, the applicant need not be subjected to custodial interrogation.

ORDER

- (i) Anticipatory Bail Application No.2217 of 2021 is allowed;
- (ii) In the event of arrest of applicant in C.R. No.216 of 2019 registered with Nirmal Nagar Police Station, the applicant be released on bail on furnishing P. R. Bond in the sum of Rs. 25,000/-, with one or more sureties in the like amount;

- (iii) The applicant shall appear before the Investigating Officer on 20th, 21st and 22nd September 2021 between 11.00 am to 01.00 pm and thereafter as and when called for till filing of charge-sheet.
- (iv) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)