

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 802 OF 2020

Pandurang s/o Ranjit Bargaje
..vs..
State of Maharashtra, thr. P.S.O.

AND

CRIMINAL APPLICATION (ABA) NO. 367 OF 2021

Krishna s/o Baburao Jaybhaye
..vs..
State of Maharashtra, thr. P.S.O.

AND

CRIMINAL APPLICATION (ABA) NO. 218 OF 2021

Dnyaneshwar s/o Yashvantrao Garud
..vs..
State of Maharashtra, thr. P.S.O.

AND

CRIMINAL APPLICATION (ABA) NO. 101 OF 2021

Shri Shankar s/o Shyamrao Patange
..vs..
State of Maharashtra, thr. P.S.O.

AND

CRIMINAL APPLICATION (ABA) NO. 141 OF 2021

Nikhil s/o Shankar Mali
..vs..
State of Maharashtra, thr. P.S.O.

AND

CRIMINAL APPLICATION (ABA) NO. 668 OF 2020

Shri Shrikant s/o Shankarrao Warankar
..vs..
State of Maharashtra, thr. P.S.O.

AND

CRIMINAL APPLICATION (ABA) NO. 394 OF 2021

Pralhad s/o Mithurao Rathod

..vs..

State of Maharashtra, thr. P.S.O.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Criminal Appln. Nos.668/2020, 141/2021, 101/2021.

Shri C.S. Dharmadhikari, Advocate for applicants.

Criminal Appln. Nos. 218/2021

Shri Amol B. Chalak, Advocate for the applicant.

Criminal Appln. Nos. 802/2020, 367/2021

Shri N.S. Samudra, Advocate for the applicant.

Criminal Appln. No. 394/2021

Shri P.B. Patil, Advocate for the applicant.

Shri M.J. Khan and Shri I.J. Damle, A.P.P. for
non-applicant/State.

CORAM : **VINAY JOSHI, J.**

CLOSED FOR ORDER ON : **08/09/2021**

ORDER PRONOUNCED ON : **15/09/2021**

Heard.

2. All these bail applications are arising out of Crime No.348 of 2020 registered with Mankapur Police Station, Nagpur City, District Nagpur for the offence punishable under Sections 420, 465, 466, 467, 468, 471, 120-B read with Section 34 of the Indian Penal Code. In anticipation of arrest, all applicants prayed for grant pre-arrest protection by claiming innocence and false implication. For the sake of convenience, all applications are taken together for its disposal.

3. The non-applicant/State has resisted all bail applications by filing separate reply-affidavits.

4. The matter pertains to a scam relating to forged sports certificates for securing a government job in reserved 5% sports quota. The informant Avinash Pund, Deputy Director of Sports and Youth Services, Nagpur Division, Nagpur has lodged a report, which ultimately unearthed a big scam. He contended that on 29.09.2017, one Sanjay Sawant had filed an application for verification of his sports certificate in power lifting. His application was accompanied with requisite affidavit of Secretary of National Federation, and original sports certificate. By way of affidavit, the authority has confirmed participation of Sanjay Sawant in specified sport. The said certificate was verified by co-accused Subhash Rewatkar, Deputy Director of Sports and Youth Services Nagpur, certifying about its correctness.

5. Later on, Sanjay Sawant has produced said certificate to the Maharashtra Public Service Commission (MPSC) while applying in reserved 5% sports quota for the post of Police Sub-Inspector. During verification, the authorities of MPSC suspected about sports certificate of Sanjay Sawant, hence, it was referred back for re-verification. While verifying the correctness of the sports certificate, it was found that the certificate as well as its certification about verification is also forged and fabricated. Accordingly, detailed inquiry was

conducted by the Director of Sports and Youth Services, State of Maharashtra, Pune. During inquiry, it was transpired that Sanjay Sawant never participated in powerlifting sport and accordingly, the certificate was found to be fake and fabricated. Moreover, the requisite information in the form of an affidavit, was also false. On detail probing, it was transpired that such fake sports certificates were issued to various candidates and their verification is also forged and fabricated. In view of said report, the Police have registered a crime and carried investigation.

6. The State government has taken a policy decision vide its Resolution dated 01.07.2016 of providing 5% reservation in the government employment for sportsman. In order to secure public employment in reserved quota for sportsman, fake sports certificates were prepared, followed by fake verification report. On detailed investigation, it was found that forged sports certificates were issued to various persons residing in the State. Moreover, the beneficiaries in whose name certificates were issued, were not residing within the Nagpur zone. However, by connivance with the authorities of Nagpur, proposals for verification were submitted at Nagpur by mentioning fictitious address and accordingly, were certified. During the course of investigation, the Police have arrested several and many are still absconding.

7. The case of each applicant varies from others. Some applicants are office bearers of the Powerlifting Association, whilst some are beneficiaries and some are acted as a middle man or an agent in procuring fake sports certificates.

8. Applicant Shrikant Warankar in Criminal Application No.668 of 20202 was the Vice President of Vidarbha Powerlifting Association as well as Vice President of Indian Powerlifting Federation, Jamshedpur. It is his contention that though his name was not mentioned in the First Information Report, he has been falsely implicated. Ad-interim protection was granted to him on which he has co-operated by attending Police Station. It is submitted that merely to help the sport person, he had a talk with them. On the other hand, the prosecution alleged that he has actively participated in not only issuance of forged certificate, but its' forged verification report. It is pointed out that, he was in constant touch with several co-accused. The prosecution has tendered a chart in tabular form in its' reply to show that the applicant Shrikant Warankar was in constant touch with other co-accused.

9. Bare perusal of chart indicate that he had frequent calls with several co-accused. For instance, he had 98 calls with co-accused Pandurang Bargaje whilst 21 calls with Ravindra Sawant. Though it is argued that calls were post First Information Report,

however, it shows close connection of applicant Shrikant Warankar with co-accused. It requires to be investigated as to what was the nexus of applicant with co-accused.

10. It is argued that, brother of the co-accused has contacted him to verify the record of Indian Powerlifting Federation to see the genuineness of certificate. In that relation, he contacted them and went to Jamshedpur. *Prima facie*, it is evident that he has facilitated for managing verification of the fake certificates through the office bearer Subhash Revatkar. Perusal of case diary indicates that, he was placing verification proposals with co-accused Subhash Rewatkar and they were acting in connivance. Moreover, applicant Shrikant Warankar has procured stamp papers for preparing false affidavit of the office bearer. Statement of witness Pravin Jagtap discloses that the applicant has provided proposal to the Authority. Moreover, he has signed some of the certificates like of Bhausahab Banger.

11. The State has filed additional affidavit dated 07.01.2021 to show that the contents of applicants affidavit are incorrect. The affiliation was granted to the Vidarbha Powerlifting Association in the year 2011, therefore, there was no question of conducting competition in the year 2008. Over all, the involvement of applicant Shrikant Warankar is

apparent. The reply-affidavit has stated various reasons for custodial interrogation. Having regard to the crucial role of the applicant and seriousness of crime, it requires thorough investigation. The applicant is a key person in the entire affair and therefore, his custodial interrogation is necessary.

12. The applicant Pandurang Bargaje in Criminal Application No.802 of 2020, was working as an Assistant Teacher at Zilla Parishad. It is argued that he has no nexus with the entire affairs. Only because his brother-in-law Bhausahab Banger/co-accused was arrested from his house, he has been falsely implicated. The State in resistance, strongly contended that the applicant Pandurang Bargaje was working as a middleman in the entire fraudulent activities. The State has given details (in paragraph 6) in the reply-affidavit to show that applicant Pandurang Bargaje was in constant touch with various co-accused. Bare perusal reveals that, umpteen time, he had talk with co-accused. To be particular, he had 92 calls with Shrikant Warankar, 372 calls with Krushna Jaybhaye, 330 calls with Ankush Rathod and 36 calls with Subhash Revatkar and so on. During the investigation, the Police took his house search and seized 110 sports certificates from his house. The said overwhelming material, *prima facie* discloses his crucial role in preparing and facilitating fake and forged certificates. Therefore, his custodial interrogation is necessary.

13. Applicant Pralhad Rathod in Criminal Application No.394 of 2021, equally claims that he is a Private Sports Teacher having no nexus with the crime. He would submit that he had merely taken hand loan from co-accused Ankush Rathod, hence he has been arrayed as an accused. It is submitted that he has neither participated in preparation of forged certificate nor he is a beneficiary. In resistance the State pointed out that applicant Pralhad Rathod was acting as an agent, he used to bring customers and indulging into the money transaction. During investigation and on verification of WhatsApp conversation, it was transpired that there were monitory transactions of Rs.90,000/-, Rs.1,20,000/- made by present applicant with other connected persons. The case diary contains some of the statements to show that the applicant has provided bogus certificates to candidates namely Akshay Shishode, Mohansingh Sisodia, etc. *Prima facie*, there is material to indicate that, he was acted as an agent and involved in money transaction for securing forged certificates. His role requires to be investigated thoroughly. He does not deserves for grant of pre-arrest protection.

14. Applicant Krishna Jaybhaye in Criminal Application No.367 of 2021 was serving as an Assistant Primary Teacher. He claims that he has no connection with the fraudulent activities. The prosecution has contended that the applicant Krishna

Jaybhaye was targeting the candidates and preparing bogus certificate. He was a link in between the authorities and co-accused. During investigation, the Police have found WhatsApp conversation, photographs of certificate and reference of money transaction with the accused. It was transpired that the applicant has provided 8 forged sports certificates of Ice Hockey for monetary gain. The C.D.R. of co-accused also discloses his continues connection with them. Perusal of case papers indicate that applicant Krishna Jaybhaye was also involved in the chain of procuring false sports certificates. He has also indulged into the monetary transaction, therefore, his custodial interrogation is necessary.

15. Applicant Shankar Patange in Criminal Application No.101 of 2021 also lies on similar footing. He was serving as a Lower Division Clerk. However, the record indicates that he has acted as an agent in procuring forged and fabricated certificates. The investigation paper indicates that he was continuesly contacted other co-accused and there was a reference of monetary transaction. The Investigating Officer found WhatsApp conversation in between applicant Shankar Patange and co-accused Ankursh Rathod and Subhash Rewatkar. His suspicious role needs investigation.

16. As regards to applicant Dnyaneshwar Garud in Criminal Application No.218 of 021 is concerned,

his case stands on different footing. He is serving as an Agriculture Assistant, admittedly, not procured job in sports quota. He has produced documents to show that he has obtain job in O.B.C. reservation. It is alleged that he has obtained forged sports certificate. However, besides that, there are no other allegations against him. Admittedly, he has not used the said certificate, therefore, he cannot be termed as a beneficiary. Moreover, he has produced a document to show that the said certificate was cancelled. Having regard to the limited allegation, his liberty can be protected by putting him on certain terms and conditions.

17. Applicant Nikhil Mali in Criminal Application No.141 of 2021 is concerned, though his name is mentioned in the First Information Report, he has not availed any benefit on the basis of forged certificate. He is working as a Civil Contractor and is privately employed. He never applied for government services in sports quota. The prosecution is unable to point any material to concede him as a beneficiary of forged certificate and therefore, his liberty can be protected by putting him on certain terms.

18. Perusal of case diary discloses that the miscreants have taken disadvantage of government scheme, which was floated with vowed object of providing employment to sports person. The policy of giving 5% reservation to the sports quota, was

basically to encourage and promote sports in the Country. It is not out of place to mention that Government is striving hard to promote and excel in sports on global level. It has also yielded in resulting of achieving Gold Medal in recent Olympic games. As against this, in case at hand, accused in a bid of making quick money misused government scheme by putting real sportsmen in lurch.

19. It reveals that, for the sake of monetary gain, forged sports certificates as well as its' verification reports, were prepared. Naturally, on the basis of forged documents undeserving person would get government job at the cost of deprivation of job to real sportsmen. The matter requires thorough investigation through custodial interrogation of applicants who are specified above. The criteria for pre-arrest bail and regular bail are different. There may be involvement of some more in the chain as it was a well designed plan to thwart the government machinery and deceive the State as well as to the eligible sportsman. Applicants of Criminal Application nos.668/2020, 802/2020, 394/2021, 367/2021 and 101/2021 does not deserve for pre-arrest protection. However, applicants of Criminal Application Nos. 218/2021 and 141/2021 have made out a case for grant of pre-arrest protection, hence the following order :

(a) Criminal Application Nos. 668/2020, 802/2020,

394/2021, 367/2021 and 101/2021 stand rejected.

- (b) Criminal Application Nos. 218/2021 and 141/2021 stand allowed.
- (c) In the event of arrest applicant Nikhil s/o Shankar Mali (Criminal Application No. 141/2021) and Dnyaneshwar s/o Yashvantrao Garud (Criminal Application No. 218/2021) in connection with Crime No.348 of 2020 registered with Mankapur Police Station, Nagpur City, District Nagpur for the offence punishable under Sections 420, 465, 466, 467, 468, 471, 120-B read with Section 34 of the Indian Penal Code, they be released on bail on their furnishing P.R. bond of Rs.25,000/-each , with one surety in the like amount.
- (d) Applicants Nikhil s/o Shankar Mali and Dnyaneshwar s/o Yashvantrao Garud shall attend concerned Police Station on every Sunday in between 11.00 am to 02.00 pm, till filing of the charge-sheet or for six months whichever is earlier.
- (e) Applicants Nikhil s/o Shankar Mali and Dnyaneshwar s/o Yashvantrao Garud shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

Later on :

20. At the time of pronouncement of order at 10.30 am, learned Counsel for applicants were present but, no request was made for continuation of

interim protection.

21. At 12.30 pm, Shri N.S. Samudra learned Counsel for applicants in Criminal Application Nos. 802/2020, 367/2020 and at 2.30 pm, Shri C.S. Dharmadhikari, learned Counsel for the applicant in Criminal Application Nos.668/2020, 101/2021 and Shri P.B. Patil, learned Counsel for the applicant in Criminal Application No. 394/2021, appeared in the Court and made a request for grant of continuation of interim protection for a period of two weeks, so as to enable them to approach before the Hon'ble Supreme Court. Learned A.P.P. for the non-applicant/State had strongly opposed the prayer.

22. In view of the reasons recorded, I do not find any propriety to continue interim protection any further. Prayer is accordingly rejected.

JUDGE

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