

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.721 OF 2022

WAMAN NAMDEV GHODKE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Satish S. Manale
APP for Respondent : Mr. V. M. Kagne
...

CORAM : S. G. MEHARE, J.

DATE : 13-07-2022

PER COURT :-

Heard the learned counsel for the applicant and the learned APP for the respondent / State.

2. As per the prosecution case, the incident happened in the year 2012. The chequered history of the case is that in the year 2012, an advertisement for recruitment of class-IV employee was published. Thereafter, the written examination was held and successful candidates were called for interview. The co-accused Balaji Limbrajrao Yadav was named in the select list and he was appointed. However, another co-accused Mahadev @ Mahadu Shyamrao Pawar had made complaint against Balaji Limbraj Yadav alleging he had produced false certificate of earthquake affected person. Then inquiry was opened. Before the inquiry was

concluded, Balaji Yadav had resigned. Thereafter, co-accused Madhav @ Mahadu Shamrao Pawar has filed petition in the High Court for his appointment in place of Balaji Limbraj Yadav. In view of the directions issued in the writ petition, Mahadu Pawar was appointed. However, the relative of co-accused Balaji lodged complaint against Mahadu that he did not appear for competitive examination, but another person appeared in his place. Then again detailed inquiry was made and it was transpired that Mahadu did not appear but some other person appeared in his place for examination. All these facts are verified by the inquiry officer from the record as well as recording of the video from the examination hall. The co-accused Mahadu, for the first time in 2022, alleged against Balaji and the present applicant that they contacted him and promised him to give him a job and for that purpose, Balaji and present applicant taken Rs. 3 Lakhs from him and xerox copies of his documents. Now the police wants to know the person who appeared in the examination for co-accused Mahadu. The police wanted to know about the said person from the applicant.

3. Learned counsel for the applicant has vehemently argued that Balaji and applicant are from the same village. Mahadu had a serious grievance against Balaji. Hence, he has made false confession before the police involving the applicant in the crime.

The applicant is in service at far distance from the place of his residence. He has no concern with the alleged incident. He is government employee and ready to cooperate with the investigation. Hence, he may be protected.

4. Learned APP has opposed the present application contending that the applicant is the person who knows about the person, who appeared in the examination in place of Mahadu. The allegations have been made against him that he and co-accused Balaji took Rs.3 Lakh from him. The facts have been verified by the inquiry officer and it is transpired that Mahadu did not appear for examination, but some one else appeared. Therefore, the custodial interrogation of the applicant is necessary.

5. Firstly, it raises a doubt about the statement of co-accused Mahadu, because he kept mum for about ten years. He alleged against Balaji Yadav that time also he did not complain about accepting money to secure the job. When he lost his job, he has made allegations against the present applicant. In this case, there appears fraud after fraud. The co-accused Mahadu was also equally responsible in committing the crime. The possibility of knowing the name of the person to the co-accused, who appeared in place of him, cannot be ruled out. The apparent enmity is on record. He has confessed when he was under the police custody.

The incident is old. The applicant is a government servant and there is apparent enmity between Mahadu and Balaji. Having regard to this fact, there is a ground to raise suspicion on the statement of co-accused Mahadu. Hence, if the protection granted to the applicant would make no difference.

6. In view of the aforesaid, the applicant can be released on anticipatory bail on stringent conditions. Hence, the order -

ORDER

- i) The application is allowed.
- ii) The interim protection granted to the applicant is confirmed.
- iii) In the event of arrest, the applicant Waman s/o. Namdev Ghodke be released on bail on furnishing P.B. and S.B. of Rs.20,000/- with one solvent surety of the like amount, in C.R.No. 13 of 2018, registered with Jilha Peth Police Station, Jalgaon, for the offence punishable under Sections 420, 465, 466 and 471 of the Indian Penal Code; on the condition that the applicant shall attend the police station on every Saturday and Sunday between 12.00 o'clock and 3.00 p.m. till the month of September 2022.

**(S. G. MEHARE)
JUDGE**