

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.695 OF 2021

Vikki S/o Limbaji Kharat

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
- 2) The Police Inspector,
Sindkheda Police Station,
District-Dhule.

...RESPONDENTS

...
Mr.Chaitanya C. Deshpande Advocate for Applicant.
Mr.V.M. Kagne, A.P.P. for Respondent Nos.1 and 2.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE OF RESERVING ORDER : 18th JANUARY 2022

DATE OF PRONOUNCING ORDER : 9th FEBRUARY 2022

ORDER :

1. The applicant is apprehending his arrest in connection with Crime No.44 of 2021 registered with Sindkheda Police Station, District-Dhule, for the offence punishable under Sections 417,

419, 420 of the Indian Penal Code and Section 66-D of the Information Technology Act.

2. Heard learned Advocate for the applicant and learned APP for the respondent – State.

3. It has been vehemently submitted on behalf of the applicant that it appears that initially the First Information Report came to be lodged with Kotwali Police Station, Ahmednagar, however, since the center of examination was Sindkheda in Dhule District, the First Information Report has been transferred for investigation with that Police Station. Though, the First Information Report would show the fact that the examination was conducted between 2nd July 2019 to 26th July 2019, the First Information Report has been lodged on 10th March 2021. There is huge delay in lodging the First Information Report, which has not been explained at all. The First Information Report would also reveal that entire case is based upon the documentary evidence. The applicant's photograph, hall ticket and other documents were verified at the time of examination by the concerned examiner, then how it can be said that somebody else had appeared in the examination in place of the present applicant. Intentionally in the First Information

Report the name of the person who appeared allegedly in place of the present applicant has not been. Nothing is required to be seized from the present applicant. In similar offence learned Sessions Judge, Aurangabad had granted anticipatory bail. Present applicant is also ready to co-operate with the investigation and would remain present before the Investigating Officer as and when directed.

4. Per contra, the learned APP strongly opposed the application and submitted that applicant was the candidate who was supposed to give the examination. As per the procedure, all the documents were to be uploaded on-line and then the hall ticket appears to have been issued. At the time of examination, thumb marks as well as signatures of the candidates were taken as a proof about the same person appearing for the examination. The results were then declared, however, at the time of verification, later on it was revealed that the thumb mark thereafter taken so also the signature that was taken, were varying. Applicant's signature and thumb marks are required to be taken for its comparison. So also the photographs and CCTV footage taken at the time of examination is required to be collected and compared with the applicant. Applicant knows who had appeared in his place for the examination. The examination

was for the post of Talathi. When the applicant had appeared through a fake person and cleared the examination then the Government would suffer, as such a person who was not eligible to be appointed would be then appointed. There might be a racket itself which takes up such steps and make the candidates available for the post, therefore, in order to have a thorough investigation, the physical custody of the applicant is necessary.

5. Herein this case, the applicant had appeared for the examination for the post of Talathi. It appears that there was a process of on-line registration for the candidates and thereafter the hall tickets were issued to the concerned candidates. It appears that it included the photographs of the candidates and also the signatures. Thereafter, at the time of examination at the center, their signatures as well as thumb marks were taken in presence of invigilator and observer. There was also an arrangement of capturing the examination proceedings on CCTV. The police papers would further disclose that provisional list of the candidates was declared. In respect of the said examination the procedure was already declared that at the time of final selection the documents would be required to be produced by the candidates. The CCTV footage and other documents were made available to the Director, Maha-Pariksha Portal

(Information Technology), Mumbai. A report has been submitted on 18th November 2020 by the Collector, Ahmednagar on the basis of the report that was given by the Project Manager, Maha (IT), Mumbai wherein it was reported that there was suspicion in respect of ten candidates regarding certain aspects. As regards the present applicant, it was opined that the photograph as well as the signature submitted earlier, and at the time of verification of the documents, is different. Definitely the investigation at this stage, is not complete. Merely by saying that the investigation depends upon the documents every applicant in such cases cannot get the discretionary relief of anticipatory bail.

6. Conducting examinations for a particular post in Government by laying down certain procedure and conditions, is definitely the prerogative of the Government itself. It is carried through different departments and the procedure and conditions were made known to the candidates in advance and therefore, it was expected that every candidate should adhere to those rules of verification. We cannot allow an ineligible candidate to be selected by resorting to such malpractices. But certainly a statement can be made, taking into consideration the present scenario, that such incidents are increasing. Unemployment is a different subject and it erupts as a volcano. It is causing socio-

economic problem, but a candidate cannot resort to this kind of practices to get an employment. He has to compete with the other unemployed candidates and upon his own merits he should get selected. Therefore, when such incidents are reported, in such cases, as a matter of course, anticipatory bail cannot be granted by saying that the investigation depends upon the documents. The person who was allegedly asked by the applicant to give examination in his place, who had cleared the examination for him, that is definitely required to be revealed and this is not limited to the applicant only but it appears that it is in respect of other nine other candidates also and therefore, this is not a case where exceptional powers of this Court to be utilized in favour of the applicant.

7. The Application stands rejected.

[SMT. VIBHA KANKANWADI , J.]

LATER ON:

8. After the pronouncement of the order, the learned Advocate appearing for the applicant submits that the interim protection was granted to the applicant and it may be continued for a period four weeks.

9. The learned APP is opposing for the same in view of the rejection of the application.

10. As aforesaid the applicant was apprehending his arrest in connection with the offence punishable under Sections 417, 419, 420 of the Indian Penal Code and Section 66-D of the Information Technology Act. This Court has come to the conclusion that the custodial interrogation of the applicant is necessary. However, now the applicant intends to approach the Hon'ble Supreme Court and in order to facilitate him, the interim protection granted earlier, is extended by two weeks from today.

[SMT. VIBHA KANKANWADI , J.]