

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1428 OF 2022

Maazbhai Aslambhai Padarwala ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Fakhruddin Khan, for the Applicant

Mrs. Geeta Mulekar, APP for the State.

Mr. A.D. Kamathe, API, Goregaon police station present.

CORAM : N. J. JAMADAR, J.

DATE : MAY 11, 2022
(VACATION COURT)

P.C.:

1. The applicant who is arraigned in C.R. No. 21 of 2022 registered with Goregon police station, Mumbai for the offences punishable under section 270, 420, 465, 466, 468, 471 read with 34 of the Indian Penal Code, 1860 (the Penal Code) and the section 3 of the Epidemic Diseases Act, 1897 has preferred this application to enlarge him on bail.

2. Dr. Sarita Aade, Assistant Medical Officer, associated with Vaccination programme of Municipal Corporation of Greater Mumbai learnt that false certificates of Covid 19 vaccination were being issued without administering the vaccine. A trap was laid. A dummy customer made a call to Sahad Shaikh, the co-accused, for such vaccination certificate. At the instruction of co-accused, the

VISHAL
SUBHASH
PAREKAR

Digitally signed by
VISHAL SUBHASH
PAREKAR
Date: 2022.05.12
13:55:15 +0530

raiding party reached in front of Nagori Siddiquie Hotel, Siddharth Hospital, Goregaon (w), Mumbai. The co-accused Sahad Shaikh gave a false vaccination certificate to the dummy customer sans any vaccination and collected a sum of Rs. 1,500/-. The co-accused was apprehended and the said cash amount of Rs.1,500/- was recovered from the co-accused.

3. The investigation revealed the complicity of another co-accused Maviya Bhoraniya. In the mobile phone handset of the co-accused Sahad Shaikh the copies of false vaccination certificates were found. It further transpired that those certificates were prepared and transmitted by the applicant, to whom the co-accused had transferred various amounts. The applicant thus came to be apprehended.

4. Eventually, post completion of investigation, a report under section 173 of the Code of Criminal Procedure came to be filed against the applicant and co-accused Sahad Shaikh and Maviya Bhoraniya for the offences punishable under section 270, 420, 465, 466, 468, 471 read with 34 of the Indian Penal Code, 1860 (the Penal Code) and the section 3 of the Epidemic Disease Act, 1897.

5. Mr. Fakhruddin Khan, the learned counsel for the applicant, submitted that the applicant was not at all named as the person who allegedly issued the false vaccination certificates nor any

incriminating material has been seized from the custody of the applicant. In fact, the first information report was lodged only against the co-accused Sahad Shaikh and Maviya Bhoraniya. It is a case of no evidence qua the applicant. Since the investigation is now complete and charge-sheet has been filed, there is no reason to detain the applicant behind the bars, urged learned counsel for the applicant.

6. In opposition to this, Mrs. Mulekar, learned APP, submitted that during the course of the trap, laid by the police party, the identity of the applicant as the person who had prepared the false certificate was disclosed by the co-accused Maviya Bhoraniya. Moreover, the statement of bank account of the applicant reveals that small amounts were repeatedly transferred by the co-accused to the account of the applicant. These circumstances, coupled with the call detail record, according to the learned APP, clearly incriminate the applicant. Thus the applicant may not be enlarged on bail, urged learned APP.

7. I have carefully considered the report under section 173 of the Code of Criminal Procedure and the documents annexed with it. I gave anxious consideration to the rival submissions also. Indisputably, the applicant was not apprehended at the time the police party allegedly laid a trap. The applicant was not the person

who the prosecution claimed to have apprehended during the course of the trap. Nor any incriminating material appears to have been seized from the possession of the applicant. The prosecution case thus hinges upon the alleged statement made by the co-accused that the false certificates were prepared and transmitted by the applicant.

8. The learned counsel for the applicant was, thus, justified in canvassing a submission that prima facie there is no credible evidence to connect the applicant with the crime. Indisputably, the allegations are of grave nature. However, the question as to whether the applicant is the author of the alleged false certificates and the applicant had used those certificates, as genuine, are the matters which warrant adjudication.

9. Investigation is complete for all intent and purpose. The applicant appears to have roots in the society. The possibility of tampering with evidence and threatening the witnesses, in the context of charge, appears remote. The apprehension on the part of the prosecution can be taken care of by imposing appropriate conditions. Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The applicant Maazbhai Aslambhai Padarwala be released on bail in connection with C.R. No. 21 of 2022 registered with Goregon police station, Mumbai upon furnishing a P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount to the satisfaction of the learned Magistrate, Borivali, Mumbai.
- 3] The applicant shall not tamper with prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.
- 4] The applicant shall furnish, on an affidavit, before the learned Magistrate his current address and the cell phone number also incorporating therein an undertaking to keep the same updated, in the event of any change.
- 5] The applicant shall not leave the country without prior permission of the learned Magistrate.
- 6] The applicant shall regularly attend the proceeding before the jurisdictional Court.
- 7] The application stands disposed.

(N. J. JAMADAR, J.)