

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2663 OF 2021

Iqbal Khan Munir Khan

...Applicant

vs.

The State of Maharashtra

...Respondent

VISHAL
SUBHASH
PAREKAR

Mr. N.R. Bubna, for the Applicant
Mrs. J.S. Lohkare, APP, for the State.

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by VISHAL
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CORAM : N. J. JAMADAR, J.

DATE : JUNE 22, 2022

P.C.:

1. This is an application for bail. The applicant is arraigned in C.R. No. 120 of 2020 registered with Pawarwadi police station, Malegaon for the offences punishable under sections 420, 465, 466, 468, 471 read with 34 of Indian Penal Code, 1860; Section 12(b) of Passports Act, 1967; Rule 3 and 6 of the Passport (Entry into India) Rules, 1950; Clause 3(1) of the Foreigners Order 1948; Section 14 of the Foreigners Act, 1946 and Rule 2 of the Report to Police Rule, 2001.

2. The gravamen of indictment against the applicant is that the co-accused No. 1 Tahir Ali Yusuf Ali and No. 2 Aalam Amin Ansari are Bangladeshi nationals. The co-accused No. 1 and 2 have entered into India without permission of the authorities. They have been

residing at Malegaon. In order to obtain the Indian passport, they falsely claimed Indian nationality. The co-accused, on the strength of false documents, namely Aadhar card, Birth certificate and Saving bank account maintained in Post Office, applied for passport. The applicant along with co-accused Nos. 3 to 7 allegedly rendered assistance to co-accused Nos. 1 and 2 in preparing the false documents despite having known that the co-accused Nos. 1 and 2 were Bangladeshi nationals. In particular, the applicant had known that the birth certificate of co-accused No. 1, which was given to him, was a false document and yet the applicant used the same as a genuine document for filing an application for issue of passport.

3. The learned counsel for the applicant submitted that the allegations against the applicant are of general nature and omnibus allegations are made that accused Nos. 3 to 8 rendered assistance to co-accused Nos. 1 and 2, in preparing the false documents. Charge-sheet has been lodged. Hence, the applicant be enlarged on bail.

4. Learned APP, on the other hand, submitted that the applicant took an active part in preparing false documents. The applicant had known that the birth certificate of accused No. 1 was false and

forged and yet the applicant has used the same as a genuine document.

5. I have perused the report under section 173 of the Code of Criminal Procedure, 1973 and the documents annexed with it. It does not appear to be the case of the prosecution that the applicant has forged any document. The allegation against the applicant is that the applicant had known that the applicant No. 1 was a Bangladeshi national and yet assisted him in making an application for passport. The charge of making false documents, which in the circumstances of the case constitutes the linchpin of the offence, does not seem to be, prima facie, attributable to the applicant. Investigation seems to be complete for all intent and purpose. The applicant is stated to be a permanent resident of Malegaon. Possibility of fleeing away from justice as well as tampering with evidence seems to be remote. I am, therefore, persuaded to exercise the discretion in favour of the applicant. Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The applicant Iqbal Khan Munir Khan be released on bail on 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, Malegaon.

3] The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

4] The applicant shall furnish his permanent address and cell phone number to the investigating officer, Pawar Wadi police station within four days of his release and shall continue to update change in the address and cell phone number to the investigating officer.

5] The applicant shall regularly attend the proceedings before the jurisdictional Magistrate.

(N. J. JAMADAR, J.)