

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.2488 OF 2021

Pritesh Padmakar Patil

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Rahul Thakur for the Applicant.

Mr.Y.Y. Dabke, APP for the Respondent –State.

Mr.Prakash A. Pawar, API, Uran Police Station, Navi Mumbai.

CORAM : C.V. BHADANG, J.

DATE : 18 JANUARY 2022

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. The Applicant apprehending arrest in connection with the investigation of Crime No.272 of 2021 registered with Uran Police Station, under Section 420, 465, 468 and 471 of the Indian Penal Code is seeking anticipatory bail.

2. The State Government through the Public Health Department issued an advertisement dated 22 February 2019 for recruitment to various posts. The Applicant had applied for a post of Electrician (Parivahan), which according to the Applicant was a temporary post. There is no dispute that the Applicant was selected and an appointment order was issued to him on 3 May 2021.

3. The Applicant had furnished a caste certificate/non Creamy Layer certificate dated 18 March 2019 which according to the first informant is a back dated certificate. According to the prosecution the certificate was obtained by the Applicant on 3 March 2021 and it was back dated to 18 March 2019 to claim eligibility for the recruitment to the post of the Electrician.

4. I have heard the learned counsel for the parties and perused record.

5. It is not disputed that the Applicant is having necessary educational qualification for the post on which he is appointed. It is also not in dispute that he belongs to non Creamy Layer and to that extent it is not the case that the Applicant, although not belonging to non Creamy Layer has furnished a certificate that he belongs to non Creamy Layer. In that sense the certificate cannot be said to be fabricated. The only allegation is that the certificate is obtained on 3 March 2021 but the certificate which was submitted at the time of the recruitment was a certificate dated 18 March 2019.

6. The learned counsel for the Applicant pointed out Clause No.13 of the Advertisement which shows that the aspirants were required to produce the various certificates caste as

well as non Creamy Layer certificate at the time of the scrutiny of the applications.

7. A specific query was made to the learned Additional Public Prosecutor as to whether the advertisement requires that the person should have eligibility as well as necessary certificates in support of such eligibility on the date of the advertisement. The learned Additional Public Prosecutor in all fairness states that there is no such requirement of the advertisement. If that be so, the learned counsel for the Applicant is right in submitting that there can be no intention or object which can be achieved by back dating certificate in as much as the Applicant was indeed holding the necessary certificate dated 3 March 2021.

8. The learned Additional Public Prosecutor has pointed out the report of the Tahashildar from the SETU Office which shows that the certificate dated 3 March 2021 with the necessary outward number and bar code is indeed issued by the Competent Authority. The only report is that certificate is not dated 18 March 2019 but is dated 3 March 2021. Thus the genuineness of the claim of the Applicant that he belongs to a non Creamy Layer is not at all disputed. As noticed earlier in the absence of any requirement in the advertisement, about the aspirant holding the necessary certificate as on the date of the advertisement, no intention can *prima facie* be attributed to

submit a back dated certificate. The learned counsel for the Applicant submitted that such a back dated certificate was never submitted by the Applicant.

9. In that view of the matter the following order is passed.

ORDER

(i) In the event of his arrest in connection with investigation of Crime No.272 of 2021 registered with Uran Police Station, the applicant shall be released on bail on executing a P.R. Bond in the sum of Rs.25,000/-with one or two solvent sureties in the like amount.

(ii) The Applicant shall attend the concerned Police Station on 21 and 22 January 2022 and as and when required by the Investigating Officer.

(iii) The Applicant shall co-operate with the Investigating Agency.

(iv) The Criminal Application is disposed of in the aforesaid terms.

C.V. BHADANG, J.