

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3117 OF 2021

Navnath Arun Waghmode

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Prashant Hagare, for the Applicant

Mr. A.A. Palkar, APP, for the State.

CORAM : N. J. JAMADAR, J.

DATE : JULY 01, 2022

P.C.:

1. This is an application for pre-arrest bail in connection with C.R. No. 418 of 2017 registered with Baramati City police station for the offences punishable under sections 420, 465, 467, 468 and 471 read with 34 of Indian Penal Code, 1860.

2. The indictment against the applicant is that the applicant was unauthorizedly transporting the sand which was excavated illegally. The vehicles of the applicant were seized. The applicant was ordered to pay the penalty of Rs. 1,41,600/-. Instead of paying the penalty, the applicant allegedly procured a false and forged order purporting to be passed by the Sub Divisional Officer and used the said order as genuine one to get the vehicles released.

3. By an order dated 23rd December, 2021 this Court has granted interim pre-arrest bail.

4. I have perused the allegations in the first information report as well as the statement of the Devidas Choudhari, the co-accused who allegedly had obtained the forged order purported to be passed by the Sub Divisional Officer.

5. The learned APP was directed to take instructions as to whether the applicant was privy to alleged forgery of the order purported to be passed by the Sub Divisional Officer.

6. Learned App fairly submits that the material on record indicates that the report under section 173 of the Code does not indicate that the applicant was aware that the orders were forged.

7. From the perusal of the statement of the co-accused, it becomes evident that the applicant had approached the co-accused with a request to reduce the quantum of fine. Thereupon the co-accused allegedly forged the order of the Sub Divisional Officer and handed over the said order to the applicant. Indeed there is material to show that the applicant had paid a sum of Rs. 60,000/- to the co-accused.

8. It seems the applicant approached the co-accused as the applicant perceived the co-accused to have official capacity to reduce the quantum of fine. There is, prima facie, no material to indicate that the applicant shared the common intention to forge the order of Sub Divisional Officer. Nor the necessary knowledge

that the order which the co-accused delivered to the applicant was forged can be attributed to the applicant, though the applicant can be said to be a beneficiary of the said order.

9. In any event, the investigation is complete. Charge-sheet has been lodged. The forged document has already been seized. In the circumstances, at this length of time, custodial interrogation of the applicant does not seem warranted.

10. For the foregoing reasons, I am inclined to make the order of interim pre-arrest bail absolute.

Hence, the following order.

ORDER

1] The application stands allowed.

2] The order of interim pre-arrest bail dated 23rd December, 2021 is made absolute on the terms and conditions incorporated therein.

3] The applicant shall regularly attend the proceedings before the jurisdictional Court.

(N. J. JAMADAR, J.)