

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1240 OF 2023

BALAJI NARAYANRAO WANKHEDE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. S. S. Deshmukh h/f
Mr. S. S. Londhe

APP for Respondents: Mrs. G. L. Deshpande

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CORAM : R.M. JOSHI, J

DATE : OCTOBER 11, 2023

PER COURT :

1. Applicant apprehends arrest in connection with with C.R. No. 403 of 2023 registered with Kalamnuri Police Station, Dist. Hingoli for the offences punishable under Sections 420, 468, 471 of the Indian Penal Code.

2. First information report recorded by Engineer attached to Municipal Council, Kalamnuri states that Balaji Wankhede, owner of Soham Construction, has submitted bogus documents while bidding tender for work distribution of tap water. It is further stated that in order to ascertain the correctness of the said document, 5 member committee was formed and the

committee has come to the conclusion that the document i.e., experience certificate of Municipal Council, Kalamnuri was false and bogus. It is also alleged that the record of Municipal Council does not show the entry of the said certificate in its outward register. Thus, there is allegation that by use of bogus signature and stamp of Municipal Council experience certificate was prepared, in order to fetch contract.

3. Learned Counsel for the Applicant submits that *prima facie* there is no substance in the allegations made in the FIR in view of the fact that the experience certificate submitted by the Applicant was duly verified and confirmed by the Municipal Council by its letter dated 07.02.2022. It is his contention that since the local MLA has taken undue interest in the said work and present FIR has been lodged against Applicant at his instance to deny contract to Applicant. It is his further submission that no offence under Sections 420, 468 and 471 of IPC can be said to have been made out against the Applicant, in view of the facts appearing on record.

4. Learned APP opposed the application by

contending that not only experience certificate, which was submitted at the time of tender is bogus, but even confirmation letter dated 07.02.2022 is also false and bogus. In order to support her submissions, she has placed on record statements of witnesses which indicate that neither experience certificate not certificate of confirmation was ever issued from office of Municipal Council, Kalamnuri. Original inward and outward register for the relevant period is also placed before the Court for its perusal, which according to her indicates that the letter/experience certificate claimed by the Applicant does not form part of record of Council. It is her further submission that in order to get the contract from the Municipal Council, Kalamnuri, Applicant has prepared false and fabricated documents with the help of bogus stamp of Municipal Council and hence, custodial interrogation of the Applicant would be necessary to find out how the said fabrication has been made.

5. At the outset, it needs to be recorded that there cannot be generalisation to say that if any MLA makes some complaint, it must be politically or

otherwise motivated. As a representative of people in his constituency, it is expected that he keeps vigil on the public work done therein. If substance is found in any complaint made by such representative of people, the same cannot be brushed aside by branding it as motivated.

6. There is no dispute about the fact that the present Applicant was one of the bidder for the work of contract of distribution of water by the Municipal Council, Kalamnuri and Applicant along with tender has submitted experience certificate issued by the Municipal Council, Kalamnuri. Though from the minutes of meeting dated 08.09.2022 it appears that there was confirmation letter dated 07.02.2022 received from the Municipal Council confirming genuineness of the experience certificate. Prosecution, however, disputes very existence/issuance of experience certificate as well as confirmation letter dated 07.02.2022.

7. *Prima facie* perusal of the investigation papers indicate that there are statements of witnesses who are employed with Municipal Council which indicate that neither experience certificate was ever issued nor

letter of confirmation of the said certificate was send from the office on 07.02.2022. The said statements of witnesses get support from the original outward register for the relevant period. From the said register as well as from the statements of witnesses, it is clear that *prima facie* there is material in order to accept the contention of the prosecution that no experience certificate was issued by the Municipal Council nor any confirmation thereof was given at any point of time. This Court is unable to accept the submission made by learned Counsel for Applicant that the record could have been manipulated. At this stage, it would not be open for this Court to hold so and *prima facie* registers placed before this Court show that they are maintained in ordinary business of Council.

8. If *prima facie* there is material to indicate that the experience certificate as well as confirmation letter was not issued by the Municipal Council, then there is reason to believe that the experience certificate as well as the said letter are fabricated documents. On the face of it acts alleged to have been

done by Applicant amounts to forgery and cheating as necessary ingredients required to constitute these offences are fulfilled. This Court finds substance in the contention of learned APP that in order to ascertain as to how the false certificate as well as letter were prepared with the help of bogus stamps, letter heads, etc, custodial interrogation of the Applicant is necessary. There is no dispute about the fact that the certificate in question was submitted by the Applicant. Thus, at this stage, he cannot be permitted to deny the responsibility of the said documents.

9. Considering the facts and circumstances and also necessity of the custodial interrogation of Applicant, this is not a fit case for grant of anticipatory bail. Hence, application stands dismissed.

(R.M. JOSHI, J.)

Malani