



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 1917 OF 2023

**BHARAT VALMIK AVHAD
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Yogesh B. Bolkar
and Mr. Vinayak D. Rakh
APP for Respondent : Mr. V.S. Badakh
...

CORAM : SHAILESH P. BRAHME, J.

DATE : 07th DECEMBER, 2023

PER COURT :

1. Heard learned counsel for both the sides.
2. The applicant is arrested in pursuance of offence registered with Newasa Police Station bearing C.R. No. 902/2021 registered under Sections 166, 166 A, 167, 196, 201, 202, 203, 406, 418, 467, 468, 471, 120 B, 34 of the Indian Penal Code. He is behind bars since 13.09.2023. Investigation is complete and charge sheet is filed on 22.02.2022. His Bail Application No. 292/2023 is rejected by learned Additional Sessions Judge, Newasa, by order dated 13.10.2023.
3. The present offence is registered against the six persons including applicant for preparing fake papers of offence C.R. No. 771/2019, registered with Newasa Police Station. On 23.12.2019, an accident took place of a tractor and motor cycle. A motor cycle driver

Murlidhar Sambhaji Kshirsagar died. The motor cycle was not registered. In order to grab the compensation, a bogus case is prepared by the accused person in collusion with accused no. 4 – Mr. Mahesh Harishcandra Kache. Mr. Mahesh Kache was the Investigating Officer. A false accident claim bearing no. 23/2020 was filed before Motor Accident Claim Tribunal at Shrirampur, against Go Digit General Insurance Company.

4. In Criminal Public Interest Litigation No. 03 of 2020, it was agitated before the High Court that in State of Maharashtra false and bogus accidents cases are being registered and the claims of the compensation are being made. It reveals that offence bearing C.R. No. 771/2019 registered with Newasa Police Station is one of such a false offences. An independent agency investigated the matter and filed present offence bearing C.R. No. 902 of 2021 against the applicant and others.

5. It is the case of the prosecution that the accident dated 23.12.2019, was used to prepare fabricated case for compensation. The Investigating Officer Mr. Mahesh Kache in collusion with the applicant and others replaced the vehicle, planted bogus name plates and prepared the police papers representing the accident of the vehicles which are not actually involved. The applicant is the contractor, a real brother of co-accused Balkrushna Walmik Avhad.

6. It is alleged that applicant is the owner of tractor of Swaraj Mazda which was involved in the accident. The tractor was bearing number plate of MH-41-AL-7171 which transpires to be fake. It is alleged that the applicant acted in collusion with other accused persons and permitted to change the tractor. In fact, the tractor belonging to him was engaged at some other place at the relevant time.

7. Learned counsel for applicant submits that the charge sheet is filed on 22.02.2022. He is behind bars since 13.09.2023. The applicant is not the beneficiary of claim for compensation. He has no role to play. When the investigation was done by co-accused (Mr. Kache) he cannot be held responsible for preparing false papers of offence.

8. Learned counsel submits that co-accused Balkrushna Walmik Avhad and Bhausahab Sambhaji Kshirsagar, have been released on bail by the Supreme Court vide orders dated 06.12.2022. He is entitled to be released on bail on the ground of parity.

9. Learned AGP has opposed the submissions of the applicant. According to him, offence is serious in nature and there is a chain of false offences registered to procure compensation from the Insurance Companies. There is role attributed to applicant. The applicant was absconding. Learned APP referred to the statements of the witnesses to show the involvements of the applicant.

10. I have considered rival submissions of the parties. I am inclined to allow this application due to following reasons :

i. Investigation is complete and charge sheet is filed on 22.02.2022.

ii. Nothing is to be recovered or no information is to be solicited from the applicant.

iii. Co-accused Babasaheb and Balkrushna having more incriminating role, have been released on bail by the orders passed by Supreme Court.

iv. The applicant is entitled to the relief on the ground of parity.

v. The applicant is found to be owner of tractor of Swaraj Mazda bearing registration no. MH-41-AL-7171. No rule is attributed to him for replacing the vehicles or name plate of any vehicle. There is no material to suggest that the applicant was going to be benefited by the false claim of compensation or he is in any way related to the claimants.

vi. It transpires that the vital role is played by accused no. 4 – Mahesh Kache who was Investigating Officer. The applicant could not have prepared the fabricated record of offence bearing CR No. 771/2019.

10. I pass following order :

- i. Criminal Bail Application is allowed.
- ii. The applicant namely Bharat Walmik Avhad, shall be released on bail in respect of C.R. No. 901/2021, registered with Newasa Police Station on furnishing personal bond of Rs. 20,000/- (Rupees twenty thousand) with one surety of like amount.
- iii. The applicant shall not tamper the evidence or contact the witnesses in any manner.

[SHAILESH P. BRAHME, J.]