



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 971 OF 2023

Vikas Shankar Makh ...Applicant

Versus

State of Maharashtra ...Respondent

Mr. Amritpal Singh Khalsa, for the Applicant.
Smt. Ashwini Takalkar, APP for the State/Respondent.
API S. B. Mohite, Nhavasheva Police Station, present.

CORAM: N. J. JAMADAR, J.

DATED: 16th OCTOBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.
2. This is an application for pre-arrest bail in connection with CR No.89 of 2022, registered with Nhava-Sheva Police Station, Navi Mumbai, for the offences punishable under Section 420 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").
3. Accused No.1 Balu Dattu Kolhe had appeared for recruitment examination conducted by Central Industrial Security Forces. He had passed the written examination. On 21st May, 2022, the candidates were called for physical fitness test. The bio-metric record of accused No.1 did not match with

the record of the candidate who had appeared for the written examination against the name of the Balu Kolhe. The invigilator entertained suspension. It transpired that instead of accused No.1 - Balu Kolhe, an impostor had appeared for written examination and cleared the said examination. Accused No.1 Balu Kolhe named the applicant as the person who had set up an impostor to clear the written examination, by obtaining a wrongful gain.

4. By an order dated 3rd April, 2023 this Court had granted interim protection.

5. The learned Counsel for the applicant submitted that the applicant has appeared before the Investigating Officer and cooperated with the investigation. The applicant has been falsely roped in on account of animosity as accused No.1 Balu Kolhe and the applicant are the residents of the same village.

6. The learned APP submitted that accused No.1 Balu Kolhe specifically named the applicant as a person, who had assured him to make him clear the written examination for a sum of Rs.5,00,000/-. Out of that, an amount of Rs.1,50,000/- was paid in cash and a sum of Rs.1,00,000/- was transferred from the account of the mother of accused No.1 to the account of the applicant.

7. From the perusal of the statement of account of the mother of the applicant it becomes evident that the said amount was credited to the account of the applicant in the month of December, 1999. Recruitment process commenced in the year 2021. The physical fitness test was held on 18th May, 2022.

8. *Prima facie*, there is no material to connect the said payment with the allegations in the FIR. In any event, at this stage, the material against the applicant appears to be that of the statement of the co-accused. The applicant had neither impersonated accused No.1 Balu Kolhe for the written examination nor impersonated accused No.1 during the course of physical fitness test.

9. In view of the above, the custodial interrogation of the applicant does not seem to be warranted. I am, therefore, inclined to exercise the discretion in favour of the applicant.

10. Hence the following order:

: O R D E R :

(i) In the event of arrest of the applicant in CR No.89 of 2022, registered with Nhava-Sheva Police Station, Navi Mumbai, the applicant be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

- (ii) The applicant shall cooperate with the investigation and appear before the Investigating Officer as and when directed.
- (iii) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (iv) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]