

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

CRIMINAL WRIT PETITION NO.2463 OF 2023

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Farheen Khan

..Petitioner

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Mitesh Varshney, Appointed Advocate for the Petitioner.
(with Farheen Khan petitioner in person – present).

Ms. S. S. Kaushik, APP for the Respondent/State.

Mr. Mohan Mane, Sr. Police Inspector, Khar Police Station a/w Ms.
Pallavi Kulkarni, API, DG Office Desk-9 & Mr. Santosh Rasam, API,
Pydhonie Police Station – present.

**CORAM : NITIN W. SAMBRE &
N. R. BORKAR, JJ.**

DATE : 2nd NOVEMBER, 2023

PC.

1. The petitioner/complainant in the offence being Crime No.15 of 2017 punishable under Sections 376, 120B and 506 of the IPC registered on 4th January, 2017 against the respondent No.2 has approached this Court with a prayer for issuance of directions to the respondent authorities to produce the documents viz. Ration Card, Voter Identity Card, Aadhaar Card, RSP (Road Safety Patrolling Certificate). In addition to above, the prayer is for cancellation of the bond executed by the respondent No.2 pursuant to provisions of Section 446A of the CrPC, as it is claimed that the respondent No.2 has suppressed the identity from the Court, so also, the Investigating Agency.

2. So as to substantiate the aforesaid contentions, counsel for the petitioner has invited our attention to the details, particularly, about the conduct of various names being used as identity of the respondent No.2. According to him, the correct name of respondent No.2 is Shahnawaz Yusuf Daudo, whereas so as to suppress his own identity, he has referred himself in various documents as Shahnawaz Mohd. Yusuf and Shahnawaz Yusuf Shaikh. According to him, the aforesaid false names are furnished by the respondent No.2/accused so as to distract the attention of the Investigating Agency to suppress identity and to get benefit of the acquittal/discharge in the aforesaid proceedings.

3. Apart from above, counsel for the petitioner would invite our attention to the contents in the charge-sheet viz. the reference to respondent No.2/accused having produced photocopies of the above referred documents viz. Ration Card, Voter Identity Card etc. (hereinafter referred to as I.Ds.). Counsel would urge that in spite of there being reference to the said documents, same are not made part of the charge-sheet. The respondent/Investigating Agency is intentionally supporting the case of the accused. Further contentions of counsel for the petitioner are, when the respondent No.2 has already surrendered his Portugal Passport, he is not entitled to hold aforesaid identity cards or the documents disclosing his identity. It is urged that the respondent No.2/accused has misled this Court, so also, respondent authorities as on one hand in some documents it is shown that respondent No.2 was born in Mumbai,

whereas in another document he is shown to have been born in Goa. Counsel for the petitioner would urge that in the aforesaid backdrop so as to find out identity of the respondent No.2/accused there is need for issuance of directions to the respondent authorities to produce the aforesaid documents.

4. In so far as the second prayer in the petition is concerned viz. cancellation of PR Bond by virtue of the respondent No.2/accused being granted bail is concerned, we are not inclined to go into the said issue, particularly, when the petitioner has already taken recourse to the issue of cancellation of bail of the respondent No.2/accused thereby canvassing the aforesaid grievance which is referred to in detail herein after.

5. In response to the aforesaid submissions, learned APP submits that the reference in the charge-sheet to the photocopies of the aforesaid identity certificates is only for the investigation purpose. It is claimed that the said documents are not thought to be necessary for the purpose of charge-sheeting the respondent No.2/accused in the aforesaid offence.

6. Learned APP would urge that having regard to the claim put forth by the petitioner, the offence is already registered against the respondent No.2/accused being Crime No.669 of 2023 on 11th September, 2023 for an offence punishable under Sections 419, 465, 468, 471 of the IPC which is under investigation. Our attention is invited to the fact that the aforesaid offence is registered at the

behest of the petitioner being a complainant, that being so, her grievance can be looked into during the course of investigation in the aforesaid offence. Counsel would further urge that as regards the issue of whether the holding of legal or lawful Passport by the respondent No.2/accused cannot be gone into in the present proceedings as the petitioner has remedy before the appropriate authority.

7. We have appreciated the aforesaid submissions.

8. We are sensitive to the very principle that the Investigating Officer is the master of investigation. The Investigating officer while investigating the offence being Crime No.15 of 2017 punishable under Sections 376, 120B and 506 of the IPC has found substance in the complaint and accordingly submitted charge-sheet against the respondent No.2. In the said charge-sheet, though reference is made to the photocopies of the identity cards as has been referred to in the arguments by the counsel for the petitioner, such documents appear to be required for the purpose of investigation only. The issue as regards identity of the respondent No.2/accused cannot be gone into by this Court in the present writ proceedings.

9. The issue fell for consideration before the Single Judge of this Court in Interim Application No.3560 of 2022 in Application No.901 of 2018, wherein the petitioner is contesting the claim for cancellation of the bail of respondent No.2/accused. We are

informed that the said proceedings are still pending before the learned Single Judge. In the aforesaid background, we also need to be sensitive to the order dated 4th September, 2023 passed in Criminal Application No.298 of 2023 with Interim Application No.2565 of 2023 which was for quashing of the prosecution under Section 482 of the CrPC, wherein the order passed under Section 340 of the CrPC was under challenge based on the above said contention of the petitioner.

10. The aforesaid order dated 4th September, 2023, which was passed at the behest of the petitioner, particularly, having regard to her stand of forged documents being produced by the respondent No.2/accused was already looked into by the learned Single Judge. That being so, we are of the view that the non production of the aforesaid documents by the Investigating Officer with the charge-sheet will be of hardly any consequences. That being so, we refrain ourselves from exercising extraordinary writ jurisdiction of this Court thereby directing the police authorities to produce photocopies of the papers, particularly, when they have submitted that they do not intend to rely on the documents while pursuing the prosecution against the respondent No.2/accused in Crime No.15 of 2017.

11. However, we deem it appropriate to grant liberty to the petitioner to approach the police authorities with her grievance, if so desired, in view of registration of fresh offence against the

respondent No.2/accused being Crime No.669 of 2023 punishable under Sections 419, 465, 468, 417 of the IPC, wherein she herself is a complainant.

12. With the above observations, we dismiss the present petition same being devoid of merit.

[N. R. BORKAR, J.]

[NITIN W. SAMBRE, J.]