



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

ANTICIPATORY BAIL APPLICATION NO. 2215 OF 2023

Mr. Shubham Dhakane

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Ayub Khan for the Applicant.
Mr. R.M.Pethe, APP for the State.

**CORAM : ANUJA PRABHUDESSAI , J.
DATED : 18th AUGUST, 2023.**

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R.No.160 of 2023 registered with Meghwadi Police Station for offences under Section 7 and 8 of Maharashtra Prevention of Malpractice Act and Section 420 r/w. 34 of the Indian Penal Code.

2. Heard learned Counsel for the Applicant, learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .

3. The applicant had applied for the post of police constable and had appeared for examination held on 07.05.2023 between 2.00 to 3.30

p.m. It was noticed that one of the candidates, was using electronic device to get the information and answers relating to the question papers. The matter was investigated and in the course of investigation, it was revealed that several candidates had used such devices, and had got information relating to the questions and that they have been selected as constable. Some of the candidates who had used the device have also been arrested in the said crime. The applicant contends that he had not used such electronic device and that he has cleared the examination on merits.

4. The material on record prima facie reveals that two sims were registered in the name of the applicant i.e. sim no.7709103237 and 7709193237. Sim No. 7709193237 was activated just about three days prior to the examination and was used only on 7.5.2023 i.e. on the day of the examination. The records reveal that the applicant herein had received call on his phone no. 7709103237 from the sim no.7709193237 on 7.5.2023 at about 14.49 hours i.e. while he was answering the papers, and the call was for almost 9 to 10 minutes. The location of sim no. 7709193237 was at Marol, i.e. the place at which examination was conducted. This fact prima facie indicates that the applicant was involved in using the said electronic device to get the answers. Hence, prima facie, it appears that the applicant has not cleared the examination on his own merits, and has been selected as police constable by adopting

mal practice. Under the circumstances, and considering the nature of the accusation, in my considered view this is not a case which would justify exercise of discretion under Section 438 of Cr.P.C. Hence the application is dismissed.

(ANUJA PRABHUDESSAI, J.)