

SA Pathan

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

ANTICIPATORY BAIL APPLICATION NO. 2660 OF 2022

Nikhil Somnath Saindane	... Applicant
V/s.	
The State of Maharashtra	... Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.2925 OF 2022**

Kishoreprasad Ramprasad Shriwas	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. A. S. Sayyed, for the Applicant In ABA No.2660 of 2022.

Mr. Girish Kulkarni, Sr. Advocate i/by Mr. Aditya Mithe, for the Applicant in ABA No.2925 of 2022

Mr. Pandurang H. Gaikwad, APP for the State-Respondent.

Mr. Manohar Karande, PI, EOW, Nasik.

CORAM : AMIT BORKAR, J.

DATED : JULY 6, 2023

P.C.:

1. Apprehending arrest in connection with C.R.No.151 of 2022 registered with Nashik Taluka police station for offences punishable under Sections 420, 467, 468, 471 r/w 34 of the Indian Penal Code, 1860 (for short 'IPC'), the applicant in both the anticipatory bail application is seeking relief of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.').

2. Applicant in Anticipatory Bail Application No.2660 of 2023 is accused No.3 and applicant in Anticipatory Bail Application No.2925 of 2022 is accused No.2.
3. One Khagendra Dinkar Tembhekar lodged report alleging that the inter-district transfer committee established by the Superintendent of Police for Nashik scrutinized applications of employees on medical grounds came to know about forged medical certificates under the signature of Sunil, Surgeon which was issued without verifying contents of such certificate. Applicant being one of the signatory was made accused.
4. Applicant in both the anticipatory bail application, therefore, filed application under Section 438 of Cr.P.C. before learned Sessions Judge which came to be rejected by order dated 28 September 2022. Aggrieved thereby, applicants have filed the present anticipatory bail applications.
5. This Court by order dated 14 November 2022 granted ad-interim relief which has been continued by this Court. The investigating officer has filed his reply to anticipatory bail applications.
6. On perusal of medical certificates, it appears that the certificates in both applications are signed by applicants as Civil Surgeon, Nashik. It is also signed by Medical Officer Nashik. According to applicants, they being Civil Surgeon, primary examination is done by the medical officer and based on his certification, applicants signed these certificates. Prima facie it appears that the medical officer certified correctness of the illness,

applicants signed these medical certificates.

7. Learned Senior Advocate on behalf of applicant invited my attention to clause 9 of Chapter XXIII of the Hospital Administration Manual Volume I, the relevant clause 9 reads as under:

“9. Certificates for purposes of physical fitness, leave, fitness to resume duty and invalidation certificates, can be given by the following Medical Officers in addition to Civil Surgeons:-

(1) Superintendent, Poona Chest Hospital, Aundh.

(2) Medical Officer who are equivalent in rank to the Civil Surgeon.

(3) Superintendent, N. M. Mental Hospital, Thana.

(4) Superintendent, Central Mental Hospital, Yeravada.

vide Government Resolution, Local Self-Government and public Health Department No.PFC-1056-S, dated 4th December 1956, *vide* Appendix 59.”

8. Considering of clause 9, *prima facie*, it appears that the medical officer has concurrent power to certify correctness of contents of medical certificate. Moreover, the investigation is completed. Applicants are made out a case. Hence, following order:

a) In the event of arrest of applicant Nikhil Somnath Saindane and Kishoreprasad Ramprasad Shriwas in connection with C.R. No. 151 of 2022 registered with Nashik Taluka police station for offences punishable under Sections 420, 467, 468, 471 r/w 34 of IPC, they be released on bail on furnishing P.R. bond of Rs.25,000/- each, along with one

or two sureties in the like amount.

b) They shall remain present before the concerned police station on 10th, 12th and 14th July, 2023 between 11:00 am to 2:00 pm thereafter, as and when called by the investigating officer.

c) They shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

d) They shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

e) They shall, at the time of execution of the bond, furnish their addresses and mobile numbers to the investigating officer, and the Court concerned, and shall not change the residence till the final disposal of the case.

9. Both the anticipatory bail applications stand disposed of. No costs.

(AMIT BORKAR, J.)