

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

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ANTICIPATORY BAIL APPLICATION NO. 2566 OF 2023

Govind Madhukar Ingale @ Govind Hariba
Kolge

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Satyavrat Joshi, i/b Samay Pawar, for the Applicant.
Mrs. Geeta Mulekar, APP for the State/Respondent.
Mr. Bajirao Naik, API Shivji Nagar Police Station, present.

CORAM: N. J. JAMADAR, J.

DATED: 11th SEPTEMBER, 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.170 of 2023, registered with Shivaji Nagar Police Station, Pune, for the offences punishable under Sections 420, 465, 467, 468 and 471 of Indian Penal Code, 1860 ("the Penal Code").

3. The applicant participated in the recruitment process of police personnel for the order 2019 and claimed horizontal reservation for Earthquake Affected Persons (EQAP). The applicant was selected from the said category.

4. It transpired that few of the candidates had submitted false and fabricated EQAP Certificates to secure the employment. The case of the applicant was also enquired into.

5. Post enquiry, Mr. Pravin Abdagire, API, lodged a report alleging, *inter alia*, that the applicant had falsely claimed that he was adopted by Smt. Sheshabai Kolge to get the benefit of horizontal reservation. For the said purpose, the applicant had forged documents and obtained orders from the Civil Court making false assertion. The applicant had paid a sum of Rs.1,40,000/- to the said Sheshabai Kolge, the EQAP, for assisting the applicant in getting a false and fabricated EQAP Certificate.

6. Apprehending arrest, the applicant approached the Court of Session. By an order dated 25th August, 2023, the learned Additional Sessions Judge, declined to exercise the discretion in favour of the applicant. Hence, this application.

7. I have heard Mr. Joshi, the learned Counsel for the applicant and Mrs. Mulekar, the learned APP for the State.

8. Mr. Joshi submitted that a competent Civil Court had passed a decree declaring the status of the applicant as an

adopted son of Smt. Sheshabai Kolge in Regular Civil Suit No.671 of 2018. The applicant has changed his name by making a declaration in a Government Gazette. These documents, especially the decree passed by the Civil Court, according to Mr. Joshi, makes out a strong *prima facie* case in favour of the applicant.

9. As against this, Mrs. Mulekar, the learned APP, submitted that the case of the applicant of being an adopted son of Sheshabai is *ex facie* untenable. In fact, the applicant has obtained a consent decree by making a positive false statement. Therefore, the applicant cannot draw any mileage from the said decree.

10. I find substance in the submission of Mrs. Mulekar, the learned APP. The Adoption Deed was purportedly executed on 1st August, 2018. It records that the ceremony of giving and taking in adoption took place on 21st March, 2000. Apparently, the applicant was 24 years of age on the date of the execution of the Adoption Deed. Under the provisions of Section 10 of the Hindu Adoption and Maintenance Act, 1956, the person to be adopted must not have completed age of 15 years unless there is a custom or usage to the contrary.

11. Secondly, there is material on record to show that Smt. Sheshabai Kolge, the alleged adoptive mother, already had a son namely Gopal Hariba Kolge on the date of the execution of the Adoption Deed or for that matter even in the year 2000. In case of adoption of a son under Section 11(i) of the Hindu Adoption Act, 1956, the adoptive father or mother must not have a Hindu son, son's son or son's son's son living at the time of adoption. *Prima facie* the alleged adoption appears to be in teeth of the provisions of the Hindu Adoption and Maintenance Act, 1956.

12. The prosecution has also brought material to show that the alleged adoption in the year 2002 was not at all given effect to as in the School Leaving Certificate issued in the year 2012 the name of the applicant was shown as Ingale Govind Madhukar. To add to this, Sheshabai Kolge, the adoptive mother, in her statement clearly states that she had not adopted the applicant in the year 2000 and that the applicant had paid her a sum of Rs.1,40,000/- and took her to Government offices and Court and made her to execute the documents.

13. The endeavour of Mr. Joshi to bank upon the decree passed by the Civil Court in RCC No.671 of 2018 does not

merit countenance. In the plaint in the said suit, a categorical statement was made that the adoptive mother had no son and she intended to adopt a son to attain salvation. The situation which thus obtains is that, in order to avail the benefit of horizontal reservation provided to EQAP, the applicant allegedly made false and fabricated document nay obtained a declaratory decree from the Civil Court by making a positive false statement. The applicant had allegedly obtained a false Ration Card to show that he was a member of the adoptive mother's family and used those documents as genuine to secure the employment.

14. Mr. Joshi attempted to salvage the position by canvassing a submission that all the offences revolve around documents and, thus, custodial interrogation of the applicant is not warranted. I find it difficult to accede to this submission. The investigation has not only revealed the *prima facie* complicity of the applicant in the alleged offences of cheating and forgery in relation to the EQAP Certificate and allied documents but also a fraud allegedly practiced on the Court to obtain a consent decree. The offences are of grave nature. Custodial interrogation is warranted to unearth

the fraud in all its aspects and unmask the identity of the persons who were involved in the said fraud.

15. I am, therefore, not inclined to exercise the discretion in favour of the applicant.

16. Hence, the following order:

: O R D E R :

- (i) Application stands rejected.
- (ii) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

[N. J. JAMADAR, J.]