

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2730 OF 2023

Ashutosh Kumar Oza ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Ganesh Gupta a/w. Mr. Balaji Gaikwad, Mr. Sahil Ghorpade i/b.
G.G. Legal Associates, for the Applicant
Smt. A.A. Takalkar, APP, for the Respondent/State.
Mr. Deepak Mahajan, HC, Pimpri police station.

CORAM : N. J. JAMADAR, J.

DATE : SEPTEMBER 29, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned
APP for the State.

2. This application is preferred seeking pre-arrest bail in
connection with C.R. No. 448 of 2023 registered at Pimpri police
station, Pune for the offences punishable under sections 420, 406,
464, 465, 468, 469 and 471 of Indian penal Code, 1860 and sections
66C and 66E of Information Technology Act, 2000.

3. The first informant is working as a Principal with a school at
Chikhali run by Subhadra Educational Society. A proposal for
sanction of additional classes for the standards 1 to 12 was to be

submitted to Central Board of Secondary Education (CBSE). The applicant had been working as a 'Consultant' with the Society in relation to CBSE evaluation, extension, section increase and for other purposes, since the year 2018.

4. The first informant lodged a report with the allegations that as instructed by the applicant she had forwarded the documents for sanction of additional classes. On 27th January, 2023 a news was broadcasted in the electronic media that the land certificate and other documents uploaded on the website of CBSE by the Society were forged. In particular, it was reported that the signature of the then Divisional Commissioner on the land certificate was forged. The Society instituted an inquiry. It transpired that the applicant had forged the land certificate and fire safety certificate while uploading the documents on the website of CBSE by misusing the credentials entrusted to him. Thus, the report.

5. The applicant approached the Court of Session. By an order dated 14th September, 2023 the learned Additional Session Judge declined to exercise the discretion in favour of the applicant.

6. Mr. Ganesh Gupta, learned counsel for the applicant,

submitted that the applicant had no role whatsoever in the uploading of allegedly forged documents. The applicant renders services as a 'Consultant' and had been assisting the Society in getting the regulatory approvals. The applicant had no access to the documents, except those which were shared by the Society. At any rate, the User ID and password to upload the documents were with the first informant and the applicant could not have uploaded those allegedly forged documents. The applicant has been made a scapegoat after the controversy broke out, urged Mr. Gupta.

7. As against this, the learned APP would urge that the investigation has revealed that the applicant had sought the User ID and password from the first informant and also demanded more money for facilitating the sanction of additional sections/classes. The applicant by abusing the credentials entrusted to him, uploaded forged land certificate and fire safety certificate. The investigation has further revealed that the applicant has got money credited into the accounts of his associates. The applicant and his associates in whose accounts the money has been transferred, have made themselves scare. Thus, custodial interrogation of the applicant is warranted to facilitate effective investigation, submitted learned APP.

8. I have carefully perused the allegations in the first information report. It appears the first information report came to be registered on 18th April, 2023, though the news of fabrication of documents to obtain the approval broke out in the last week of January, 2023. However, there is material on record to indicate that on 29th January, 2023 itself the management of the Society had addressed communications to the authorities including the police seeking an inquiry into the alleged incident of forgery. The applicant was specifically named as the person who was entrusted with the documents and the task. The Society also instituted an inquiry. The Inquiry Committee after recording statements of the concerned persons gave report indicting the applicant. In the circumstances, the aspect of delay does not, prima facie, impinge upon the prosecution case.

9. At the first blush the submission on behalf of the applicant that, being a Consultant, the role of the applicant was restricted to advising the Society and at best, uploading the documents which were shared by the institute appears alluring. However, in the case at hand, there are concomitant circumstance, which point, prima facie, to the complicity of the applicant. First, there is transcript of the messages exchanged on Whatsapp between the applicant and

the first informant which indicate that the applicant had demanded User ID and password and the principal/manager signature on the blank letterhead and those credentials and documents were shared. Second, there is material to indicate that the applicant had demanded payment of Rs. 75,000/-. The statement of the accountant indicates that at the instance of the applicant the Society had credited various amounts in the names of different persons. Prima facie, there is material to indicate that the applicant was given the credentials for uploading the requisite documents on the CBSE portal. Thus, the submissions that the applicant could not have uploaded the allegedly forged documents as he had no access to the portal prima facie falls through. The prosecution further alleges that the persons in whose account the applicant got the money transferred could not be traced at their respective addresses. All these factors make out a very strong prima facie case against the applicant.

10. Fabrication of documents purportedly issued by the District Collector and Chief Fire Officer and the forgery of the signatures of officers and seal of offices are matters of grave concern and consequences. The offences are of such nature that custodial interrogation of the applicant is indispensable for effective

investigation.

11. For the foregoing reasons, I am, not inclined to exercise the discretion in favour of the applicant.

Hence, the following order.

ORDER

1] The application stands rejected.

2] It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

(N. J. JAMADAR, J.)