

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.355 OF 2023

Sheikh Wasim Sheikh Rais and another Vs. State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri M.N. Ali, Advocate for applicants.

Shri I.J. Damle, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : JULY 03, 2023.

By this application, the applicants are seeking anticipatory bail in the event of their arrest in connection with Crime No.244/2023 registered with Police Station, Mehkar, District Buldhana for the offences punishable under Sections 468, 471, 171D, 171F of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by Pralhad Trimbak Mandalkar, who is serving as a teacher, on an allegation that he was deputed on a duty at polling center no.7 and when he was discharging the duty one person came to cast his vote showing Aadhar card namely Anil Devappa Aavti. At the relevant time, the person namely Anil Devappa Aavti also came there and therefore the informant suspected that said Aadhar card is bogus and fabricated one. It further revealed to him that the person who came with Aadhar card of Anil Devappa Aavti was possessing the forged Aadhar card. He has used the said forged Aadhar card as a genuine Aadhar card for casting his

vote. On the basis of the said report, the police registered the crime against the present applicant.

3. As per contention of the present applicants, they are implicated in the alleged offence merely on suspicion, infact they are unconcerned for the alleged offences. Their physical custody is not required as the voting chit is already seized by the investigating officer and it was cancelled. The bogus Aadhar card is also seized. Therefore, they be protected by granting ad anticipatory bail.

4. Learned APP strongly opposed the application on the ground that interrogation regrading from which he has prepared the said bogus Aadhar card is to be carried out and therefore physical custody of the applicants is required.

5. Heard learned counsel for the applicant Shri M.N.Ali. He reiterated the contentions and submitted that the vote chit as well as alleged bogus Aadhar card are already seized and that therefore physical custody of the applicants is not at all required. As far as interrogation regarding the place from which they have prepared the bogus Aadhar card is concerned, they can be interrogated even if they are released on anticipatory bail.

6. Learned APP Shri I.J. Damle vehemently submitted that the applicants have used the bogus Aadhar card and investigation regarding the place, machine through which

the said bogus Aadhar card was prepared is to be carried out. Hence, the application be rejected.

7. Having heard both the sides and after perusal of the statements recorded during investigation it reveals that the vote chit as well as bogus Aadhar card is already seized by the investigating officer. As per the investigating agency, the custody of the present applicants is required as to interrogate the place and the machine from which the said bogus Aadhar card is prepared and the *modus operandi* of the applicants is to be investigated.

8. On perusal of the papers, it reveals that the incriminating articles are already seized. As far as the interrogation is concerned, some conditions can be imposed on the applicants by releasing them on anticipatory bail. Accordingly, I proceed to pass the following orders:

ORDER

- i. The application is allowed.
- ii. In the event of arrest in Crime No.244/2023 registered with Police Station, Mehkar District Buldhana for the offences punishable under Sections 468, 471, 171D, 171F of the Indian Penal Code, applicants –(1) Sheikh Wasim Sheikh Rais and (2) Rushikesh Deepak Salve, be released on bail on they furnishing P.R. Bond in the sum of ₹25,000/- each with

one surety in the like amount.

iii. The applicants shall attend Police Station, Mehkar District Buldhana, once in a week i.e. on every Monday between 10.00 am to 1.00 pm and shall cooperate in the investigation.

iv. The applicants shall furnish their cell phone numbers and address with address proof.

v. The applicants shall not induce, promise or threat any of the witnesses, who are connected with the crime.

vi. The applicants shall cooperate with the investigating agency to produce the incriminating articles, if any, and this period be considered as their custody for the purpose of recovery under Section 27 of the Indian Evidence Act.

With this, the application is disposed of.

JUDGE

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