



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 893 OF 2024

	Ashish s/o Ajit Bhandari, Age; 40 years, Occ; Medical Practice, R/o; Saras Nagar, Ahmednagar.	...Applicant
	V E R S U S	
1)	The State of Maharashtra,	
2)	Superintendent of Police, Ahmednagar, District Ahmednagar.	...Respondents

.....
Advocate for the Applicant : Mr. R.M. Dhorde (Senior Advocate) i/b
Mr. Vikram R.Dhorde
A.G.P. for Respondent Nos. 1 & 2 : Mr.N.B. Patil
Advocate for Assist to APP : Mr. A.M. Gholap
.....

WITH

ANTICIPATORY BAIL APPLICATION NO. 912 OF 2024

	Dr. Rakesh s/o Kantilal Gandhi Age; 42 years, Occ; Medical Practitioner, R/o; Flat No. 1, Mahadeo Apartment, Pipeline Road, Savedi, Dist. Ahmednagar.	...Applicant
--	--	--------------

	V E R S U S	
1)	The State of Maharashtra, Through Kotwali Police Station, District Ahmednagar.	
2)	Superintendent of Police, Ahmednagar, District Ahmednagar.	...Respondents

.....
 Advocate for the Applicant : Mr. Nilesh S. Ghanekar
 A.G.P. for Respondent Nos. 1 & 2 : Mr.N.B. Patil
 Advocate for Assist to APP : Mr. A.M. Gholap

CORAM : KISHORE C. SANT, J.

Date of Reservation : 12.08.2024
Date of pronouncement : 21.08.2024

ORDER :

1. Both these application are preferred seeking bail in the event of arrest of the applicants, in connection with the FIR No. 556 of 2024, registered with Kotwali Police Station, District Ahmednagar for the offences punishable under Sections 406, 467, 468, 471 r/w 34 of the Indian Penal Code (for short 'IPC').

2. The FIR is lodged by one Amit Rasiklal Kothari, who has also appeared before this Court through Advocate, by way of filing an application seeking permission to assist the learned APP.

3. It is the case of the first informant that he and his wife Shweta are the trustees of one of the trust namely "Rays Foundation" (hereinafter referred to as the 'said trust') alongwith Dr. Rakesh Kantilal Gandhi and others. Dr. Rakesh Gandhi is an applicant in ABA No. 912 of 2024, who is the Chairman of the said Trust since inception. The said trust runs a College namely Arihant College of Pharmacy. The said trust is having Bank Account in HDFC Bank, Station Road, Ahmednagar. The said account is operated by the informant and one Yogesh Suresh Bafna as authorized trustee. Dr. Rakesh Gandhi, Dr. Ashish Bhandari and the informant are also elected as trustees of another trust namely 'Balaji Harji Karpe' trust. This 'Balaji Harji Karpe' runs a school namely 'Sai Angel School' from Nursury Play Group till 10th at Tavlenagar, Aurangabad Road, Savedi, Ahmednagar, in their own land. For the construction of the said School, they had raised loan from the Bank of Maharashtra and opened loan account. The said loan Account became NPA. The bank, therefore, started recovery

proceedings. Pursuant to that now loan is repaid by the trust by collecting amount from the trustees.

4. Lateron, in August, 2022 the present applicants decided to raise loan for the construction of building for the School run by the 'Karpe Foundation' and for that purpose it was decided to apply for the loan of Rs. 8,50,00,000/- and for that purpose the applicants put a proposal with the bank that the 'Rays Foundation' shall give guarantee for the same. It is shown in the bank that the informant, his father and other trustees have passed a resolution to that effect. The informant, his wife, one Ajit Kothari and Rasik Chandulal Kothari, now deceased, have not even signed the said resolution. However, still the 'Rays Foundation' was shown as guarantor and loan from HDFC Bank got sanctioned. It is alleged that for that purpose, the applicants made bogus signatures and have prepared bogus documents. Though there was no resolution passed, a fabricated resolution was given to the bank and new Bank Account came to be opened. It is, thus, alleged that the applicants have committed forgery. They have also breached the rules of the Trust. Thus, there is cheating as well. On these allegations the FIR came to be lodged.

5. These applicants approached the learned Sessions Judge, Ahmednagar seeking bail in the event of their arrest. The learned Sessions Judge, Ahmednagar by order dated 20.05.2024 rejected their application, thus, the applicants are before this Court.

6. The learned Senior Advocate Mr. Dhorde, vehemently argued the application. He submits that there is no dispute so far as the fact that the School of 'Karpe Trust' was to be taken over and loan was to be obtained from the bank and for that purpose an account was to be opened in HDFC Bank. He submits that his client has no concern with the 'Rays Foundation'. There is no question of fabrication of the documents of the said trust, as infact the bank has not disbursed the loan of Rs. 8,50,00,000/-. Thus, no offence as alleged has taken place. This applicant is not a party to any forgery. He has not done any act pursuance to the alleged forgery. His client has not done anything causing loss to the trust or to the bank. There is no question of endorsement by the informant or any other person. The complaint is lodged just to pressurize. No specific role is assigned to his client.

7. Mr. Ghanekar, learned Advocate submits that infact when an amount of Rs. 9,00,000/- was transferred from the 'Rays Foundation' and while transferring the said amount an OTP was sent from the account of informant himself, still the informant has lodged a complaint. The said amount was to be utilized for the trust. He has made specific averments in his application that while transferring the amount from the account of 'Rays Foundation', an OTP was sent to the informant. Thus, the applicant was aware of opening of the account and still has lodged the complaint after much delay. There is no loss caused to any one. There is a complaint filed by one Yogesh Bafna against the informant in respect of the some transactions of the trust. He thus submits that no offence is actually made out. Custody of the applicant is not required. He thus prays for allowing the application.

8. Learned APP for the respondent-State with the assistance of the learned Advocate Mr. Gholap, vehemently argued the case submitting that the applicants are not co-operating the investigation and they are not giving such information. Attention is also invited to a copy of resolution dated 09.02.2023. It is submitted that in fact no resolution was ever passed on

09.02.2023, still said document was submitted before bank for opening an account. Signatures appearing on the documents are not of the informant, his father and his wife. The signatures of these persons are forged. He also invites attention to certified copy of the resolution passed by the Board of Director of 'Rays Foundation' dated 13.02.2023, wherein, the signatures appearing on resolution are not signatures of the informant, his wife and father. He further submits that these bogus documents were given when a resolution was in the 'Marathi' language and the copies produced on record would show that while submitting documents in the bank they submitted english translation. Though there was no power given, however, the applicants themselves impressed the bank that they have been given the powers to open and operate bank account. In the register of the trust, no such resolution is found. The trial Court has clearly observed that these applicants were absconding and were not traced. He submits that original resolutions dated 09.02.2023 and 13.02.2023 are not found on record. He thus submits that the applicants do not deserve any relief from this Court. It is further pointed out that the avements in the application No. 912 of 2024 are not correct even to the knowledge of the applicants as the amount of Rs. 9,00,000/-, in the

HDFC bank account was deposited through a cheque and there was no question of receiving any OTP for the said transaction on the mobile number of the informant. In any case, when the applicants have not approached this Court with clean hands, on the contrary allegations are levelled against the informant. This conduct of the applicants do not make them to get the relief of anticipatory bail.

9. During the course of hearing this Court had called for information from the HDFC bank, to ascertain as to where are the original resolutions. It is submitted by the bank that the original resolutions were given to the bank while opening an account. On this the learned APP invited attention to the certified copy of the resolution wherein, the endorsement is seen of the bank official that the original is seen and the documents were returned. It is submitted that the original resolutions are returned to the applicants. It is thus clear that the original resolutions are with the applicants, however, inspite of inquiry they are not giving the originals, whereas, it is the say of the applicants that the original resolutions are in 'Marathi' language and those are in the office of the trust. Since the bank required the original resolutions, the english translation was given certifying it to be true copies.

Therefore, there is some typographical mistake when actually the originals were with them. It was wrongly typed as 09th February, 2023.

10. Now, there is additional affidavit filed by the Ashish Bhandari on record. It is seen that the applicant Ashish Bhandari has no concern with the 'Rays Foundation', whereas, Rakesh Gandhi is a member in both trusts i.e. 'Rays Foundation' and 'Karpe Foundation'. Thus the custody of Ashish Bhandari is of no any help so far as the information about the 'Rays Foundation' is concerned. As regards as Rakesh Gandhi is concerned, it is seen that a copy of resolution annexed by him bears incorrect information. He could not satisfy the Court about the same. So far as a specific stand taken in his application that while opening bank account an OTP was sent on mobile of informant is concerned, it is clear that no such OTP was sent as the amount was not transferred on line but was transferred by way of cheque. He accepts that the averments in his application are made under misconception. He has also filed additional affidavit on 12.08.2024. It is stated in the affidavit dated 12.08.2024 that he has also tried to collect the original documents from the bank. While making translation of

resolution the date and other material was wrongly typed. So far as the averments in respect of OTP are concerned, it is argued that in the interrogation by police to some other persons in presence of these applicants, it revealed that the OTP was sent, therefore, the averments were made in his application.

11. This Court finds that the case of both the applicants is different on two counts, firstly that the Rakesh Gandhi happens to be the trustee in both the trusts, whereas, Dr.Ashish Bhandari is not a trustee in 'Rays Foundation'. Mr. Rakesh Gandhi has made specific allegations in his application levelled against the informant that the informant has given misleading information in the FIR, which is found to be incorrect.

12. Both the applicants submit that they are the medical practitioners and there is no possibility of their absconding. If they are arrested, their images would be tarnished. In view of the above, this Court finds that the applicant in ABA No. 893 of 2024 Dr.Ashish Bhandari deserves bail. Where as applicant in ABA No. 912 of 2024, Dr. Rakesh Gandhi does not deserve any protection from this Court. Hence following order :

ORDER

i) Anticipatory Bail Application No. 912 of 2024 stands rejected.

ii) Anticipatory Bail Application No. 893 of 2024 stands allowed.

iii) Applicant Dr. Ashish Bhandari be released on bail, in the event of his arrest, in connection with FIR No.556 of 2024, dated 02.05.2024, registered with Kotwali Police Station, Ahmednagar, for the offences punishable under Sections 406, 467, 468, 471 r/w 34 of the Indian Penal Code, on furnishing PR bond of Rs. 50,000/- (Rs. Fifty Thousand Only) alongwith a solvent surety in the like amount.

iv) The Applicant shall co-operate with the police.

(v) The applicant shall attend concerned police station as and when called by the police.

(vi) The applicant shall keep informed the concerned police station about his contact details such as residential address, mobile numbers etc. and shall not leave Ahmednagar city till filing of the

charge-sheet.

vii) The applicant shall not try to contact any of the prosecution witnesses.

(viii) In case of breach of any of the condition, this order is liable to be cancelled.

(KISHORE C. SANT)
JUDGE

13. After pronouncement of the this order the learned Advocate Mr. Ghanekar for the applicant Dr. Rakesh Kantilal Gandhi, in ABA No. 912 of 2024 prays for extension of interim relief. The same is therefore, extended for four weeks from today.

(KISHORE C. SANT)
JUDGE

mahajansb/