

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3109 OF 2023**

Digambar Ananda Basarkar ... Applicant
versus
The State of Maharashtra ... Respondent

Mr. Satyavrat Joshi with Ms. Shivani Kondekar, for Applicant.
Mrs. Mahalaxmi Ganapathy, APP for State.
DY.SP Uday Desai, CID, Crime Branch, Kolhapur, present.

CORAM: N.J.JAMADAR, J.

DATE : 20 AUGUST 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No.297 of 2023 registered with Bhudargad Police Station for the offences punishable under Sections 467, 468, 471, 420, 166, 167, 209, 465, 120B read with Section 34 of the Indian Penal Code.
3. By an order dated 2 November 2023, this Court was persuaded to grant interim bail to the applicant observing, inter alia, as under :

“3. False and fabricated claim petitions were fled before the Motor Accident Claims Tribunal, Kolhapur. One of such claim was in respect of Sanjay Baburao Khot. It was initially reported on 24th May 2019 that Sanjay Baburao Khot had met with an accident while

riding motor cycle bearing No. MH-09-ES-6604. To get an enhanced compensation, the prosecution alleges that, it was asserted that the deceased was a pillion rider. The first claimant in the said Motor Accident Claim Petition is a relative of the applicant, who was then posted at Bhudargad Police Station. It is alleged that the applicant was in the custody of the Accident Report dated 25th May 2019 for about 7 days and it transpired that the said report was forged so as to delete the word 'sitting' by erasures and interpolations.

4. Initially, the applicant was not named in the first information report. Subsequently, it was alleged that, the applicant was in custody of those documents and he must have forged the accident report dated 25th May 2019. The question as to whether the applicant was the custodian of those documents which were allegedly forged or was enjoined to make entries of those documents in the registers maintained at Bhudargad P.S., would warrant investigation. The question as to whether the applicant is the author of the alleged forgery will also depend on the aspect as to whether the applicant has had the opportunity to deal with the allegedly forged documents.

5. In the aforesaid view of the matter, I am inclined to grant interim protection while directing the applicant to join in the investigation."

4. Mr. Joshi, learned Counsel for the Applicant submitted that initially the applicant was sought to be roped in on the basis of the statement of the co-accused Bhikaji Desai, who had allegedly disclosed that the report lodged by Prasad Patil, first informant, on

25 May 2019 and other relevant documents in C.R.No.119 of 2019 were in the custody of the applicant before the registration of the said Crime. However, the material does not indicate that the applicant was the custodian of the allegedly forged documents or otherwise entrusted with those documents.

5. Learned APP resisted the prayer for pre-arrest bail. It was submitted that the statement of Jayshree Patil, wife of Vijay Patil, who allegedly falsely claimed that the deceased was a pillion rider on the bullet being driven by him, has stated that it was the applicant who had asked the said witness make Vijay Patil to take responsibility for the accident as that would fetch higher compensation if the deceased was shown as a pillion rider.

6. Learned APP also invited attention of the Court to the statement of Sanjay Gurav recorded under Sections 161 and 164 of the Code of Criminal Procedure. Sanjay Gurav stated that on 12 June 2019, the applicant had delivered Medical Memo and the draft report of Prasad S. Patil. Mr. Sanjay Gurav further stated that those documents might have been in the custody of the applicant and there is a strong possibility that the applicant might

have forged those documents. The statement of Anil Chauhan recorded under Section 164 of the Code, before the Magistrate, proceeds on similar lines.

7. Prima facie, it appears that the applicant is sought to be roped in as the wife of the deceased was a distant relative of the applicant. The latter had allegedly induced the co-accused Vijay Patil to claim responsibility for the accident as that would fetch a higher compensation. Evidently, a prior statement of Jayshree Patil was recorded on 5 May 2022 before CID. The veracity of the version of Jayshree Patil would be a matter for adjudication at the trial.

8. The material on record does not indicate that the applicant was entrusted with the documents in the official capacity. The statements of Sanjay Gurav and Anil Chauhan pressed into service by Mrs. Ganapathy, are in the nature of a conjecture that the applicant might have forged the documents.

9. In the aforesaid view of the matter, the custodial interrogation of the applicant does not seem warranted. Since the applicant is a public servant, the possibility of fleeing away from

justice and tampering with evidence appears remote. I am, therefore, inclined to make the order of interim bail absolute.

10. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The order of interim bail dated 2 November 2023 is made absolute on the terms and conditions incorporated therein.

(iii) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(iv) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for pre-arrest bail only.

Application disposed.

(N.J.JAMADAR, J.)