

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1843 OF 2024

Jayashree Sachin Shelke

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Sanjay P. Shinde, for Applicant.
- Mr. Kiran C. Shinde, APP for Respondent.
- Mr. Tushar Manohar Garud, API, Ozar Police Station

CORAM : MANISH PITALE, J.

DATE : 09th SEPTEMBER, 2024.

P. C. :

1. Heard Mr. Sanjay Shinde, learned counsel for the applicant and Mr. Kiran Shinde, learned APP for the respondent – State.

2. On 08.07.2024, this Court granted interim relief in favour of the applicant for the following reasons :

“6. *This Court is of the opinion that while the present application can be kept pending and the applicant can be directed to joint the investigation, a case for granting interim order is made out. This is because the applicant is not denying the fact that the residence certificate was indeed issued to the accused No.6 as the applicant is a village level entrepreneur. It is the case of the applicant that she had issued the aforesaid certificate on the basis of the documents submitted by the accused No.6 in support of her application. It is further asserted that the details of such*

application and the fact that the certificate was issued can be verified, even today, from the relevant portal. The applicant is ready to cooperate with the investigating officer to access the portal in order to support the said stand of the applicant. This Court finds that the FIR initially pertains to a matrimonial dispute raised by the informant against accused No.1 (husband) and other relatives, in addition to which, the allegations have been made against accused Nos.1 and 6 that they have married each other. The aspect of accused No.6 having obtained employment as Angannwadi Sevika on the strength of an alleged forged residence certificate, has to be viewed in the backdrop of such a matrimonial dispute. The applicant is not directly related to either of the parties. So long as the applicant is ready to co-operate with the investigating, she has indeed made out a case for granting interim relief.”

3. The learned APP informs that the applicant did appear before the Investigating Officer as directed on 10.07.2024, but the statement given by the applicant shows that she has not cooperated with the investigation. Attention of this Court is invited to the statement of the applicant recorded on 10.07.2024, wherein it is stated that the time period for which the data on the concerned portal remains available is one year and since period of more than one year has passed, the applicant is unable to show any documents or information from the portal. According to the learned APP, this amounts to the applicant not cooperated with the investigation and hence, the application

ought not to be allowed.

4. Further reliance is placed on an alleged forged certificate of residence dated 06.07.2023, issued in favour of accused No.6, wherein barcode of another individual was wrongly used, for which the applicant has no explanation.

5. In this context, the learned counsel for the applicant has tendered an application moved by her before the Tehsildar on 10.07.2024 i.e. within two days of the interim relief granted to her. In the said letter, she sought relevant data from the portal, so that the same could be produced before the investigating officer in terms of the direction given by this Court to cooperate with the investigation. It is the case of the applicant that she was informed about the data being available only for a period of one year. In that support letter from the Tehsildar addressed to the concerned Police Inspector dated 25.07.2024, is also relied upon, copy of which is tendered. In the said letter, the Tehsildar has confirmed the fact that since the data on the concerned portal is kept alive only for a period of one year, the same is not available, as the period of one year has already expired. Considering the copies of the letter dated 10.07.2024 submitted by the applicant to the Tehsildar and the letter dated 25.07.2024 sent by the Tehsildar to the concerned Police Inspector, copies of which are taken on record (marked "X" collectively), it cannot be

said that the applicant has refused to cooperate with the investigation.

6. Even otherwise, this Court has perused the documents filed along with the application as well as the investigation papers. The thrust of the allegations against the applicant is that she issued a forged residence proof certificate in favour of accused No.6. According to the document at page No.33 with the present application, the applicant herself states that, as a village level entrepreneur, she did issue the residence proof certificate dated 10.07.2023 in favor of accused No.6 on the basis of copies of documents like Aadhar Card, School Leaving Certificate and Ration Card produced by accused No.6. As a village level entrepreneur, the applicant neither has the power nor the wherewithal to verify the genuineness of such documents and her duty appears to be to take such documents on record and issue residence proof certificate. In such a situation, at this stage, it cannot be said that the applicant can be held responsible for any forged or false documents tendered by the persons seeking such a residence proof certificate. Considering the limited role played by the applicant as the village level entrepreneur, it would not be appropriate to jump to conclusions at this stage itself against the applicant. If the data as per the existing norms has been deleted from the concerned portal and this is confirmed by the Tehsildar, it can also not be said that the applicant has deliberately stalled the investigation or failed to cooperate with the same.

7. It is for the investigating authority to take appropriate steps in the matter, for which the applicant would undoubtedly cooperate.

8. In view of the above, the interim order dated 08.07. 2024 is confirmed and the application is allowed.

9. The applicant shall continue to cooperate with the investigation. She shall not influence the informant, witnesses or any other persons concerned with the case.

(MANISH PITALE, J.)