

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2388 OF 2024

Chetan Babasaheb Bankar ... Applicant
Vs.
Senior Inspector of Police and another ... Respondents

Mr. Rizwan Merchant a/w. Mr. Swapnil Wagh, Ms. Vinita Dandekar and Mr. Prathmesh Bhosale for Applicant.

Ms. Rutuja A. Amberkar, APP for Respondent-State.

Mr. Aviraj Kurade, Police Inspector, Crime Branch Unit I, Kashimira, M.B.V.V. Commissionerate.

CORAM : MANISH PITALE, J.
DATE : OCTOBER 01, 2024

P.C. :

. Heard Mr. Merchant, learned counsel for the applicant and Ms. Amberkar, learned APP for the respondent-State.

2. The applicant has approached this Court seeking anticipatory bail as he apprehends arrest in connection with FIR No.1145 of 2023 dated 13.12.2023 registered with Virar Police Station, District - Mira Bhayander, Vasai Virar, for offences under Sections 368, 420, 465, 466, 467 and 471 read with Section 120-B of the Indian Penal Code, 1860 (IPC).

3. The informant, in the present case, is a motor vehicle inspector attached to the Regional Transport Office (RTO), Vasai Virar. The informant has stated that the accused persons had adopted a peculiar *modus operandi* to use vehicles that had already crossed their productive life and were to be disposed of as scrap. It is alleged that certain forged and fabricated documents, in the context of such vehicles, were prepared to show as if the vehicles were registered with the RTO in the State of

Arunachal Pradesh. Thereafter, forged no objection certificates (NoCs) were also prepared to show as if the RTO of the State of Arunachal Pradesh had given no objection for transfer of registration of such vehicles to the State of Maharashtra. The *chasis* and engine numbers of such vehicles were thereafter effaced and registration numbers pertaining to the RTO office at Vasai Virar were put on such *chasis* and engines with forged and fabricated documents being produced in the context of the RTO office at Vasai Virar. Initially, only one person was named as an accused and thereafter, names of further accused persons were added.

4. The learned counsel for the applicant submits that the investigating authority did not add the applicant as an accused in the present case and even after filing of the charge-sheet, he has not been arraigned as an accused person. It is submitted that during the course of investigation, on three occasions, notices under Section 41-A of the Code of Criminal Procedure, 1973 (Cr.P.C.) were issued and on two occasions, the applicant had appeared and co-operated with the investigation process. It is submitted that the material filed along with the charge-sheet, in no manner, indicates any criminality on the part of the applicant and there is absolutely no material to indicate the involvement of the applicant in the alleged offences. It is further submitted that the documents and statements, on which reliance is placed before this Court, would show that such statements are merely the statements given by co-accused persons and despite all such material being available with the charge-sheet, the investigating authority did not arraign the applicant as an accused person. In fact, similarly situated persons have been shown as witnesses, thereby indicating that the insistence on the part of the investigating authority, at this stage, for physical custody of the applicant, is totally misplaced and it is in the teeth of the law laid down by the Supreme Court in this regard. Reliance

is placed on judgements of the Supreme Court in the case of *Bhadresh Bipinbhai Sheth Vs. State of Gujarat*, (2016) 1 SCC 152 and *Satender Kumar Antil Vs. Central Bureau of Investigation*, (2022) 10 SCC 51.

5. On the other hand, the learned APP has relied upon the documents filed along with the charge-sheet. Some of the statements of the witnesses with relevant documents have been culled out in a separate volume for convenience of this Court. By inviting attention of this Court to such documents, it is submitted that investigation is still ongoing and the role of the applicant is evident not only from the statements made by the co-accused persons, which reveal the *modus operandi* adopted in the present case, but also documentary material unearthed during the course of investigation from RTO and other such offices. It is submitted that the applicant is a wanted accused person and he has been avoiding the process of law and it cannot be said that he has co-operated with the investigation. It is submitted that if protection is granted to the applicant, it would adversely affect the investigating authority in properly conducting further investigation. It is further submitted that in the present case, all the accused persons have conspired to violate the provisions of law and in the process, they have indulged in forgery and fabrication, resulting in registration of serious offences.

6. This Court has considered the material on record from which the *modus operandi* indicated in the statement of the informant, leading to registration of the FIR, is revealed. It appears that the accused persons conspired and heavy vehicles, that could not be plied on the roads, were sought to be brought back on roads by way of forging documents. The manner in which the documents were forged *prima facie* appears to be evident from the statements given by the witnesses during the course of investigation, as also the statements of certain co-accused persons. The *modus operandi* involved preparing forged and fabricated documents,

not only in respect of RTO at Vasai Virar, but also in respect of certain RTO in the State of Arunachal Pradesh. It was when the investigating authority verified from the concerned offices about the genuineness of the documents, that the entire conspiracy came to light.

7. This Court has perused the material on record. It is clear that some of the co-accused persons have clearly given statements about the role of the applicant before this Court. Not just the aforesaid statements made by the co-accused persons, but the statements of some of the witnesses and the documents on record *prima facie* indicate the involvement of the applicant in the present case. This is specifically in respect of six heavy vehicles. It is found that in respect of such vehicles, there are documents said to be bearing signatures of the applicant, whereby requests were made to the RTO at Vasai Virar for taking on record the no objection certificates purportedly issued by the RTO of the State of Arunachal Pradesh, along with the documents showing registration of such vehicles in the aforesaid State, which were later on found to be not genuine upon verification from the said office. There is also reference to a specific address in respect of the six vehicles at Vasai Virar. Investigation into the said aspect of the matter has led to a notarized leave and licence document, wherein it is shown as if the applicant is a tenant of a particular address at Vasai Virar. The landlord of the said premises has denied execution of any such document. The applicant is a resident of Shirdi and the existence of the said document and the reference to the specific address of Vasai Virar in respect of at least six vehicles registered in the name of the applicant does give rise to a strong suspicion about the involvement of the applicant in the *modus operandi* adopted by the co-accused persons. There is reference to certain specific payments made by the applicant to the co-accused persons through payment applications. Such co-accused persons *prima facie* are found to be directly involved in effacing the *chassis* and engine

numbers on vehicles and replacing them with concocted registration numbers on the basis of forged and fabricated documents of the RTO at Vasai Virar.

8. Such material, at this stage, does make out a *prima facie* case against the applicant. But, the thrust of the submissions on behalf of the applicant is on his having co-operated with the investigation when notices under Section 41-A of the Cr.P.C. were issued to him and that, all such material, which is now relied upon by the investigating authority, was available when the charge-sheet was filed and yet, the applicant was not arraigned as an accused person.

9. A specific statement is made by the learned APP that further investigation is being undertaken. It is a matter of record that there are number of accused persons, who are absconding. In such a situation, the entire conspectus of the *modus operandi* and the manner in which the accused persons acted, will be revealed, upon further investigation and the material on record brought to the notice of this Court cannot be ignored merely because the applicant responded to two out of three notices issued under Section 41-A of the Cr.P.C., even if one of such notice was after filing of charge-sheet. In this context, reliance placed on the judgement of the Supreme Court in the case of **Bhadresh Bipinbhai Sheth Vs. State of Gujarat** (*supra*), particularly paragraph 25.3 is found to be misplaced because the position of law in that regard applies when the Court comes to a conclusion that the applicant (accused) has been fully co-operating with the investigation and that, he is not likely to abscond. In the facts of the present case, this Court is unable to reach such a conclusion in favour of the applicant.

10. Reliance placed on **Satender Kumar Antil Vs. Central Bureau of Investigation** (*supra*) can also be said to be misplaced in the facts and circumstances of the present case. It cannot be ignored that in such

cases, as and when the material comes on record on further investigation, the investigating authority is justified in claiming that unless physical custody of the applicant is taken, the effectiveness of the investigation would be blunted. This Court finds that the facts and circumstances of the present case justify the stand taken by the learned APP. Voluminous material was made available before this Court to indicate that at various stages, the name of the applicant has cropped up and there is material to *prima facie* indicate his involvement in preparation of forged and fabricated documents and utilizing the same for using vehicles that were required to be discarded as scrap. This Court is not impressed with the submission made on behalf of the applicant that similarly situated persons have been shown as witnesses, while he is being hounded as an accused, for the reason that the investigating authority will certainly take the appropriate steps in the matter as and when the investigation progresses further.

11. In view of the above, the application is dismissed.

(MANISH PITALE, J.)

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