

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 2564 OF 2024

Arunkumar Devnath Singh

...Applicant

Versus

The State of Maharashtra

...Respondent

SHRIKANT
SHRINIVAS
MALANI

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- Mr. Aabad Ponda, Senior Counsel a/w Mr. Abid Mulani, Mr. Ashish Agarkar, Ms. Harshada Panphani and Mr. Chinmay Patil, for Applicant.
- Mr. Shishir Hiray, Special Public Prosecutor a/w Mr. Sanjay Kokane and Mr. Sagar R. Agarkar, APP for Respondent – State.
- Mr. Ganesh Ingale, ACP, Crime-1, Pune City.

**CORAM : MANISH PITALE, J.
RESERVED ON : 27th SEPTEMBER, 2024
PRONOUNCED ON : 23rd OCTOBER, 2024.**

ORDER :

1. This Court heard arguments in the present application on 27.09.2024 and closed the same for orders. The learned senior counsel appearing for the applicant as well as the learned Special Public Prosecutor (SPP) appearing for the respondent – State, both requested for time till 09.10.2024 for placing written notes of arguments and supporting judgments on record, as a question of law arose in the matter. Accordingly, the parties were granted time and they did place on record written notes of arguments alongwith copies of supporting judgments.

2. On 27.09.2024, this Court recorded a statement made by the learned SPP, on instructions of the ACP, Crime-1, Pune City, present in Court

on that day, that till the decision in the present application, no coercive action would be taken against the applicant.

3. The applicant in the present application is one of the accused persons concerning First Information Report (FIR) No.0306 of 2024, dated 19.05.2024, registered at Police Station Yerawada, District Pune, for offences under Sections 304, 338, 337, 427, 279, 120-B, 201, 213, 214, 466, 467, 468, 471 and 109 read with Section 34 of the Indian Penal Code, 1860 (IPC) and Section 7, 7-A, 8, 12 and 13 of the Prevention of Corruption Act, 1988 and Section 184, 185, 3(1) 180, 5(1) 171, 119-A and 199/177 of Motor Vehicle Act, 1988.

4. The FIR was registered at the behest of informant Aquib Mulla. He stated that when he and his friends were returning home after a party and they reached near landmark society at Kalyani Nagar, Airport road, Pune, a Porsche car, which did not have registration plates, being driven in an extremely rash and negligent manner, under drunken condition by a child in conflict of law hit a Bajaj Pulsar Motorcycle from the backside, thereby causing the death of the victims, who were riding the motorcycle. The occupants of the said car included the minor son of the applicant, who was said to be sitting in the rear seat of the Porsche car and who was himself alleged to be in a drunken condition.

5. The investigation was conducted by the ACP and upon completion of investigation charge-sheet was filed, with the case being registered as Special Case (ACB) No. 917 of 2024. It was alleged that the parents of the child in conflict with law, who was driving the Porsche car, indulged in illegal conduct by bribing the doctors of the hospital where the blood samples of the occupants of the car were collected for analysis. According to the investigating authority, one of the doctors i.e. Dr. Halnor at the Sassoon General Hospital, Pune, accepted illegal gratification of ₹ 3 Lakhs from the parents of the child in conflict with law, who was driving the Porsche car, in order to take the blood sample of the mother of the said child in conflict with the law and to show the same as being that of the child in conflict with law, further forwarding it for analysis. This was done with the connivance of another doctor named Dr. Taware and other persons, all of whom have been arraigned as accused persons.

6. Similarly, the allegation against the applicant is that he replaced the blood sample of his minor son in connivance with the aforesaid doctors and staff, as also the co-accused parents of the child in conflict with law, who was driving the Porsche car, with the blood sample of co-accused Ashish Mittal and such replaced blood sample was sent for analysis. According to the investigating authority, the applicant absconded when the said *modus*

operandi came to light during the course of investigation. The other co-accused persons were arrested, while the applicant remained absconding. He applied for anticipatory bail before the Sessions Court, but the same was rejected by an order dated 09.09.2024.

7. Mr. Aabad Ponda, learned senior counsel appearing for the applicant submitted that although there may be material on record to *prima facie* indicate the role of the applicant in terms of the aforesaid allegations made against him, and even if the conduct of the applicant could be said to be reprehensible, at worst, he could be held responsible for offence under Section 201 of the IPC, pertaining to causing disappearance of the evidence of offence or giving false information to screen the offender, which is a bailable offence. It was submitted that the investigating authority opposed the prayer for anticipatory bail and the Sessions Court rejected the prayer by holding that a strong *prima facie* case is made out against the applicant under Section 467 of the IPC, pertaining to forgery of valuable security, which is punishable with imprisonment for life or for a term of imprisonment which can be extended to 10 years. It was submitted that as a matter of law, in the face of the allegations made against the applicant and the *modus operandi* attributed to him, the ingredients of the offence under Section 467 of the IPC are not made out. On this basis, it was submitted that the present application ought to be allowed.

8. In this context, the learned senior counsel appearing for the applicant referred to Section 464 of the IPC, which pertains to making a false documents and in that context he referred to Section 467 thereof. It was submitted that a proper analysis of the two provisions in the light of the law laid down by the Supreme Court in the case of *Mohammed Ibrahim and others Vs. State of Bihar and another*¹ would show that the present case does not fit into any of the three contingencies contemplated under Section 464 of the IPC. On this basis, it was submitted that when forgery itself cannot be made out, there is no question of the actions of the applicant amounting to forgery of valuable security.

9. He further submitted that the document prepared by co-accused Dr. Halnor could never be said to be a forged document for the reason that, when the said accused prepared the document showing that the blood sample being forwarded was that of the minor son of the applicant, despite the fact that it was the blood sample of co-accused Ashish Mittal, the said co-accused Dr. Halnor was not under deception, as he was himself a party to creation of the false document. It was further submitted that the report of the Assistant Chemical Analyzer titled as Alcohol Examination Certificate could also not be said to be a document prepared under deception by the Assistant Chemical Analyzer, for the reason that he prepared the report on the basis of the blood

1 (2009) 8 SCC 751

sample provided by co-accused Dr. Halnor. It was emphasized that, at worst, the blood sample had been replaced. But, since the blood sample could never be said to be a “document”, there was no question of applicability of Sections 464 and 467 of the IPC against the applicant. In this regard the learned senior counsel appearing for the applicant placed reliance on judgment of the Division Bench of this Court in the case of *Niranjan Lakhumal Hiranandani Vs. Central Bureau of Investigation & Another*², judgment of the Madhya Pradesh High Court in the case of *Shankarlal Vishwakarma Vs. State*³, judgment of Supreme Court in the case of *Ishwarlal Girdharilal Parekh Vs. State of Maharashtra and others*⁴, judgment of the Madras High Court in the case of *Daniel Hailey Walcott and another Vs. State*⁵ judgment of learned Single Judge of Rajasthan High Court in the case of *State Vs. Parasram*⁶, judgment of the Gujarat High Court in the case of *Motisinh Gambhirsinh Vs. The State*⁷ and judgment and order of the Supreme Court in the case of *Sheila Sebastina Vs. R. Jawaharraj & Anr. Etc.*⁸

10. On the basis of the aforesaid submissions, it was contended that on a pure question of law, it was evident that under Sections 464 and 467 of the IPC can never be invoked against the applicant, in the facts and

2 2018 SCC OnLine Bom 1116

3 1990 SCC OnLine MP 216

4 1968 SCC OnLine SC 47

5 1967 SCC OnLine Mad 163

6 1964 SCC OnLine Raj 76

7 1961 SCC OnLine Guj 2

8 Order dated 11.05.2018 passed in Criminal Appeal Nos.359-360 of 2010

circumstances of the present case, thereby indicating that the applicant deserves to be granted the relief of anticipatory bail.

11. On the other hand, Mr. Hiray, the learned SPP vehemently opposed the present application. It was submitted that the Sessions Court correctly appreciated the *modus operandi* adopted by the applicant and co-accused persons in the present case, while dismissing the anticipatory bail application. It was submitted that in the present case the Alcohol Examination Certificate prepared by the Assistant Chemical Analyzer completely answered the description of a false document got prepared by deceiving the said authority by the applicant in conspiracy with the co-accused persons. Much emphasis was placed on the fact that in the present case offence under Section 120-B of the IPC, pertaining to criminal conspiracy is also registered against the accused persons, including the applicant. It was submitted that this aspect ought not to be ignored while considering the contentions raised on behalf of the applicant. The learned SPP further referred to Section 30 of the IPC, pertaining to “valuable security.” It was submitted that the aforesaid Alcohol Examination Certificate prepared by the Assistant Chemical Analyzer was a document creating legal right or extinguishing the same, as the said document falsely created by the accused persons, including the applicant, would be the basis for the minor son of the applicant obtaining a clean chit.

12. The learned SPP also relied upon judgment of the Supreme Court in the case of **Mohammed Ibrahim and others Vs. State of Bihar and another** (*supra*). He emphasized upon the third limb under Section 464 of the IPC, pertaining to making a false document, by contending that deception was practised against the Assistant Chemical Analyzer during the preparation of the Alcohol Examination Certificate as an impression was given that the blood sample of the minor son of the applicant was being analyzed while in reality the blood sample was that of co-accused Ashish Mittal. It was submitted that there was sufficient material brought on record to show that the blood sample had been replaced and in that context deception was clearly evident. It was submitted that the thrust of the contention raised on behalf of the applicant was on the basis of hospital record created by co-accused Dr. Halnor. It needs to be appreciated that not only were false record and documents created by the co-accused persons with the active connivance of co-accused Dr. Halnor, the Alcohol Examination Certificate was clearly a forged document created on the basis of deception. On this basis, it was submitted that the ingredients of offence under Section 467 of the IPC are clearly made out and the applicant cannot claim that, at worst, he can be held liable only under Section 201 of the IPC.

13. It was submitted that the role of the applicant cannot be

segregated from that of the co-accused persons and that the aforesaid offence under Section 467 of the IPC was committed by the applicant with the active connivance of the co-accused parents of the child in conflict with law driving the Porsche car, as also the aforementioned doctors and employees of the hospital. The said co-accused persons were all arrested, while the applicant has remained absconding. His custody is necessary to unravel the conspiracy hatched with the co-accused persons, including the amount of bribe given to the co-accused doctors.

14. The learned SPP relied upon the judgments of the Supreme Court in the case of *Ishwarlal Girdharilal Parekh Vs. State of Maharashtra and others (supra)*, *State of U.P. Vs. Amarmani Tripathi*⁹, *Sumitha Pradeep Vs. Arun Kumar C.K. and another*¹⁰, *Srikant Upadhyay and Others s. State of Bihar and another*¹¹ and *C.B.I. Vs. Anil Sharma*¹².

15. This Court has considered the rival submissions. There can be no dispute about the fact that offence under Section 201 of the IPC is bailable and hence, the prayer made in the present application will have to be tested on the question as to whether offence under Section 467 of the IPC is *prima facie* made out against the applicant. There is substance in the contention raised on behalf of respondent – State that the Court must consider whether the

9 (2005) 8 SCC 21

10 (2022) 17 SCC 391

11 2024 SCC OnLine SC 282

12 (1997) 7 SCC 187

applicant has made out a *prima facie* case, particularly in the context of the severity of punishment prescribed for the offence under Section 467 of the IPC.

16. A perusal of the material that has come on record during the course of investigation *prima facie* indicates that blood sample of the minor son of the applicant was replaced with the blood sample of co-accused Ashish Mittal. This was at the behest of the applicant himself, in order to create a document that would ensure that the minor son of the applicant goes scot free. The co-accused persons i.e. the parents of the child in conflict with law, who was driving the Porsche car, also undertook identical action by replacing the blood sample of the said child with that of his mother, again in order to create a document that would ensure that the said child also goes scot free. The said co-accused parents of the child in conflict with law driving the Porsche car, as also the other co-accused persons, including the doctors of the hospital and other employees were all arrested, while the applicant has remained absconding. It is in this context that the pure submissions on law raised on behalf of the applicant as regards applicability of Section 467 of the IPC in the backdrop of Section 464 thereof need to be considered.

17. In order to properly appreciate the rival contentions, it would be necessary to refer to the aforementioned two provisions, which read as

follows :

“Section 464. Making a false document —

A person is said to make a false document—

First — Who dishonestly or fraudulently makes, signs, seals or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed or executed, or at a time at which he knows that it was not made, signed, sealed or executed; or

Secondly— Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly — Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or the nature of the alteration.

Section 467 Forgery of valuable security, will, etc.—

Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son,

or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

18. A bare perusal of the Section 464 of the IPC quoted hereinabove shows that a false document can be made or created in three contingencies specified in the said provision. The Supreme Court in the case of **Mohammed Ibrahim and others Vs. State of Bihar and another** (*supra*) considered the said provision in the context of Section 467 of the IPC and held as follows :

“13. The condition precedent for an offence under Sections 467 and 471 is forgery. The condition precedent for forgery is making a false document (or false electronic record or part thereof). This case does not relate to any false electronic record. Therefore, the question is whether the first accused, in executing and registering the two sales deeds purporting to sell a property (even if it is assumed that it did not belong to him), can be said to have made and executed false documents, in collusion with the other accused.

14. *An analysis of Section 464 of the Penal Code shows that it divides false documents into three categories :*

1. *The first is whether a person dishonestly or fraudulently makes or executes a document with the intention of causing it to be believed that such document was made or executed by some other person, or by the authority of some other person, by whom or by whose authority he knows it was not made or executed.*
2. *The second is whether a person dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part, without lawful authority, after it has been made or executed by either himself or any other person.*
3. *The third is where a person dishonestly or fraudulently causes any person to sign, execute or alter a document knowing that such person could not by reason of (a) unsoundness of mind; or (b) intoxication; or (c) deception practised upon him, know the contents of the document or the nature off the alteration.*

In short, a person is said to have made a “false document”, if (I) he made or executed a document claiming to be someone else or authorised by someone else; or (ii) he altered or tampered a document; (iii) he obtained a document by practising deception, or from a person not in control of his senses.”

19. In the light of the allegations made by the investigating authority and the material collected in that context, there can be no doubt that the third limb of Section 464 of the IPC is invoked in the present case. This necessarily requires that the document in question is obtained by practising deception on a person due to which he does not get the knowledge of the nature of alteration.

20. The learned senior counsel appearing for the applicant is justified in contending that the document of the hospital record prepared by co-accused Dr. Halnor cannot be covered under the third limb of Section 464 of the IPC, for the simple reason that the co-accused Dr. Halnor did not suffer any deception while executing and creating the hospital record to show the blood sample of co-accused Ashish Mittal as that of the minor son of the applicant. He was very much party to creation of the false document and therefore, the said document could not be the basis for invoking Section 467 read with Section 464 of the IPC against the accused persons, including the applicant herein. To that extent he is justified in placing reliance on judgments in the cases of **Niranjan Lakhumal Hiranandani Vs. Central Bureau of Investigation & Another** (*supra*), **Shankarlal Vishwakarma Vs. State** (*supra*), **Ishwarlal Girdharilal Parekh Vs. State of Maharashtra and others** (*supra*), **Daniel Hailey Walcott and another Vs. State** (*supra*), **State Vs. Parasram**

(supra), **Motishinh Gambhirsinh Vs. The State** *(supra)* .

21. Reliance placed on judgment of the Supreme Court in the case of **Sheila Sebastina Vs. R. Jawaharraaj & Anr. Etc.** *(supra)*, is misplaced, for the reason that in the present case the third limb of Section 464 of the IPC is invoked by the investigating authority in the context of Section 120-B thereof, while claiming that offence under Section 467 of the IPC was committed. The case of **Sheila Sebastina Vs. R. Jawaharraaj & Anr. Etc.** *(supra)* was concerned with an allegation of creation of a Power of Attorney by an impostor who impersonated a particular individual. In the context of such facts, the observations in paragraph No.25 and 26 of the said judgment were made, which are not applicable to the question that has arisen in the facts and circumstances of the present case.

22. In the present case the controversy really concerns the Alcohol Examination Certificate prepared by the Assistant Chemical Analyzer of the Regional Forensic Science Laboratory at Pune. The said document dated 25.04.2024, reads as follows :

“FORM “C”
(See Rule 5)

ALCOHOL EXAMINATION CERTIFICATE

Telephone No.(020) 25654772

No.P/AL-305-306 of 2024
M.L. Case No.ALP-153/2024
Date :- 24/05/2024

From,
 THE DEPUTY DIRECTOR,
 REGIONAL FORENSIC SCIENCE LABORATORY,
 STATE OF MAHARASHTRA, GANESHKHIND, PUNE-411007

To,
 The Casualty Medical Officer,
 Sassoon General Hospital,
 Pune – 411001.

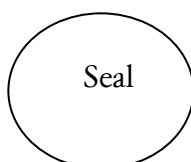
Your letter M.L.C.No.16126/2024 Dated 19/05/2024 forwarding One test tube in an envelope containing blood of Naman Arunkumar Singh. bearing Serial-M.L.C.No.16126/2024, labeled Naman Singh. received here on 21/05/2024 with messenger. A.P.I. - A.T. Kadam

Condition of the parcel (s) / seal (s)

--One sealed envelope containing One sealed test tube seals intact
 (Device – S.G.H. PUNE CASUALTY DEPT.) and as per copy sent.--

Result of the Test of the Blood

--- The blood contains No Ethyl Alcohol.---



sd/-

(V. V. Deshmukh)

Assistant Chemical Analyser

Regional Forensic Science Laboratory,

Home Dept., Govt. of Maharashtra, Pune-07

NB-(1) W/V=gms of Ethyl Alcohol in 100 ml of blood

(2) For details off the report please see reverse.”

23. A perusal of the above quoted document shows that the Assistant Chemical Analyzer has certified the result of the test of the blood sample as “The blood contains no Ethyl Alcohol.” This result was given on the basis that

the blood sample was that of the minor son of the applicant. It is crucial that the above quoted certificate specifically refers to a label bearing a particular serial number and the name of the minor son of the applicant. The learned senior counsel appearing for the applicant has gone to the extent of contending that although the conduct of the applicant may have been reprehensible, as there is strong *prima facie* material to show that the blood sample of the minor son of the applicant was replaced with that of co-accused Ashish Mittal, but since the blood sample cannot be said to be a document, it cannot be concluded that there was deception practised in the present case. Hence, according to him, the basis of invoking Section 464 of the IPC and in that context Section 467 thereof, is completely missing.

24. It is to be appreciated that the deception here was practised by labeling the subject blood sample as that of the minor son of the applicant, while in reality it was the blood sample of co-accused Ashish Mittal. The applicant, being the father of the said minor son, was part of the conspiracy under Section 120-B of the IPC to bring about such deception by affixing of label to show the blood sample to be that of the minor son while it was the blood sample of co-accused Ashish Mittal. It is the said label affixed on the blood sample that was the basis of deception, read with the documents created in conspiracy with co-accused Dr. Halnor. Hence, the contention raised on behalf of the applicant that blood sample is not a “document”, pales into

insignificance. It is due to this deception practised on the Assistant Chemical Analyzer that he had no knowledge of the nature of alteration, resulting in the said Alcohol Examination Certificate, being signed, sealed and executed. Viewed from this angle, the contention raised on behalf of the respondent – State that the applicant was very much part of the conspiracy in committing the offence under Section 464 of the IPC, holds good. There is a strong *prima facie* case made out against the applicant for offence committed under Section 467 of the IPC read with Section 464 thereof. The said document clearly answers the definition of “valuable security” under Section 30 of the IPC, as it certainly created a right in the accused minor son of the applicant of portraying innocence.

25. The case of the investigating authority throughout is that all the occupants of the Porsche car, including the applicant’s son and the others including the child in conflict with law driving the car were in a drunken state and in that situation the car was driven in such a high speed that it hit the motorcycle from behind on which the victims were riding, causing their death. A strong *prima facie* case being made out against the applicant can certainly be the basis of rejecting such an application for anticipatory bail. There is substance in the contentions raised by the learned SPP by placing reliance upon judgments in the cases of **Sumitha Pradeep Vs. Arun Kumar C.K. and another** (*supra*) and **Srikant Upadhyay and Others s. State of Bihar and**

another (*supra*), as also **C.B.I. Vs. Anil Sharma** (*supra*). It is settled law in terms of the said judgments that power to grant anticipatory bail is an extraordinary power which has to be exercised in a cautious and judicious manner depending upon facts and circumstances of each case. There is substance in the contention raised by the learned SPP that the applicant remaining absconding has created an impediment for the investigating authority to fully and effectively investigate into the matter, including the angle of conspiracy and the constituents thereof, hatched by the applicant with the co-accused persons, including the doctors who were bribed for replacing the blood samples. There can be no doubt about the well recognized position of law laid down by the Supreme Court in the case of **C.B.I. Vs. Anil Sharma** (*supra*) with regard to the qualitative difference between custodial interrogation, which is more elicitation oriented, as compared to questioning a suspect who is well ensconced with a favourable order of anticipatory bail.

26. The applicant has failed to make out a case in his favour for this Court to exercise discretion for granting anticipatory bail to him. The question of law raised on behalf of the applicant with regard to the very applicability of Section 467 read with Section 464 of the IPC, in the facts and circumstances of the present case, is answered against the applicant. This Court finds that the ingredients of the offences are *prima facie* made out against the applicant. The said offence under Section 467 of the IPC

prescribes punishment with imprisonment for life and therefore, the application deserves to be dismissed.

27. Accordingly, the application is dismissed. Needless to say, the respondent – State is not bound by the statement recorded in the order dated 27.09.2024. It would be upto the investigating authority to take further steps in the matter, in accordance with law.

(MANISH PITALE, J.)