



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.658 OF 2023

Kapil Dinkar Yergude

Vs.

State of Maharashtra, Through Ramnagar, District Chandrapur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Mir Nagman Ali, Advocate for applicant.
Mr. Nikhil Joshi, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 04/01/2024

1. Heard.
2. By this application, the applicant is seeking pre-arrest bail in connection with Crime No.801/2023 registered with Police Station, Ramnagar, District Chandrapur for the offence punishable under Sections 420, 467, 468 and 471 read with Section 34 of the Indian Penal Code.
3. The applicant is apprehending arrest at the hands of police as the accusation is made against him and other co-accused on the basis of report lodged by Narendra Vithobaji Khandekar who is serving as a Deputy Collector, Chandrapur, who alleged that the star question was raised in the Assembly, regarding the

certificates issued to the Project Affected Persons on the basis of forged documents.

4. As per the allegation, out of 128 Project Affected Persons, 72 certificates are on the basis of forged documents. It is alleged that present applicant has prepared the forged document and on the basis of said forged document, obtained the Project Affected Person Certificate.

5. Learned Counsel for the applicant Mr. Mir Nagman Ali, submitted that the present applicant is not involved in the act of creation of a forged document or forged Project Affected Persons' Certificate. He further submitted that another crime is also registered regarding the preparation of the forged document wherein present applicant is not made an accused and his father was made as an accused. He further submitted that the father of the present applicant has already initiated the action against the person Atul Katre who was involved in the preparation of the said forged certificate. He submitted that this action taken by his father itself is sufficient to show that present applicant is not a person who has not prepared the said forged certificate. As present applicant is not involved in preparation of the forged document, his custodial interrogation is not required and therefore, he be protected by granting anticipatory in the event of his arrest.

6. Per contra, learned APP Mr. Joshi strongly opposed the application on the ground that for issuing this certificate to the present applicant, the officer from Collector Office, Chandrapur as well as Chandrapur Thermal Power Station's Officers' are also responsible. During the investigation, it reveals that the present applicant produced forged and fabricated document and on the basis of which he obtained the job. During verification of document it revealed that, on the basis of forged certificate, he secured the job and thus, applicant has gained the employment on the basis of said forged certificate. He further submitted that as the star question was raised in the Assembly, the investigation was conducted and it reveals that out of 128 persons, only 72 persons have obtained the forged certificates and prayed for rejection of the application.

7. He further placed reliance in the case of **Pratibha Manchanda & anr. Vs. State of Haryana**, reported in **(2023) 8 SCC 181** and submitted that while deciding anticipatory bail application, the Court has to bear in mind the personal liberty as well as the gravity of the offence and impact of the said offence on the society, and on weighing the same, has to decide whether bail should be granted or should not be granted.

8. After hearing both the sides and on perusal of the investigation papers it reveals that, one of the co-accused has obtained Project Affected Persons' Certificate on the ground that her father Sampat Govinda More was owner of the survey No. 59/03 admeasuring 24 R. During investigation it further revealed that, father of the present applicant got prepared the said forged certificate and said certificate is used by the present applicant for gaining employment. The documents submitted by the learned Counsel for the applicant shows that father of the present applicant has initiated the action against the person who has prepared the false and forged certificate. Thus, this fact itself clear that present applicant's father has taken the assistance got prepared the said forged certificate and present applicant has used the said forged certificate to gain the employment and secured the employment.

9. After perusal of the investigation papers it reveals that, Investigating Officer has recorded the various statements and from the said statement it revealed that not only the present applicant but in all 72 persons have obtained such type of forged certificate. If this aspect is taken into consideration, it reveals that present applicant has obtained the benefit on the basis of said certificate. If in such type of matters, while considering the bail application a liberal view is taken then in the near future, this phenomena may attend its

peak and then the situation would be grave and beyond control.

10. Furthermore, in my opinion, the applicant is not entitled for any protection as his participation in the recruitment process and securing the job on the basis of forged certificate while entering into the service itself is a serious matter. He cannot start his career on the basis of forged and fabricated documents. He is educated person ought to have given a thought before relying upon such a certificate of which he is having knowledge that certificate is false and fabricated.

11. In my view, anticipatory bail in such a crime cannot be granted by using discretion. Participation in the selection process with such fabricated document itself indicates the dishonest intention of the present applicants. In view of that, I am not inclined to use such discretion in favour of the present applicant. In the result, application deserves to be rejected. Accordingly, application is rejected.

(URMILA JOSHI-PHALKE, J.)