



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

CRIMINAL APPLICATION (ABA) NO.756 OF 2023

Zeba D/o Arif Khan

Vs.

State of Maharashtra, Through Police Station Officer, Gadge Nagar, Amravati

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

Court's or Judge's orders

Mr. Parvez W. Mirza, Advocate for applicant.
Ms. Sneha Dhote, APP for non-applicant No.1/State.
Mr. Shadan T. Khan, Advocate for objector.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 12/01/2024

1. By this application, the applicant seeks pre-arrest bail in connection with Crime No.1258/2023 registered with the Gadge Nagar Police Station, Amravati, District Amravati for offences punishable under Sections 419, 420, 465, 467, 468, and 471 of the Indian Penal Code read with Section 11(1)(b) of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance & Verification of) Caste Certificates Act, 2009.

2. The crime registered against the applicant on the basis of report lodged by Ravishekhar Singh on an allegation that the complainant is working as Administrator Officer in Dr. Punjabrao Medical College at

Amravati. He received a letter from Shri Anil Deshmukh to lodge a written report against the applicant as the applicant took admission in the said medical college in the year 2011 on the basis of false caste certificate and claimed benefits of reserved category. It is further alleged that the applicant also availed benefits of Scholarship which are available to reserved category and later on she cleared her MBBS Examination and left for Mumbai and now pursuing her practice. On the basis of the said report, the crime is registered against the applicant.

3. Learned counsel for the applicant submitted that the crime is registered after a period of 10-11 years. As far as the custodial interrogation is concerned, the same is not required as the forged certificate is already seized by the investigating agency. The applicant was also protected by the trial Court during the pendency of her application. She cooperated with investigating agency. He further submitted that merely for recording the statement of the witnesses the custody of the present applicant is not required. Moreover, the offences alleged are not punishable with imprisonment more than seven years. He submitted that though Section 467 is made applicable by the investigating agency however, section is not applicable in the present case as for attracting Section 467 which reads as, 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.

4. Herein the present case there is no allegation that the applicant has forged any document which purports to be a valuable security or a will or an authority to adopt a son therefore, Section 467 of IPC is not applicable which is punishable with the life imprisonment. He submitted that in view of the judgment of the Hon'ble Apex Court **Satender Kumar Antil Vs. Central Bureau of Investigation** reported in **(2022) 10 SCC 51**. The Investigating Officer has to satisfy himself before the arrest and after recording reasons he has to forward the report to the Magistrate. The present applicant is not served with any notice by the Investigating Officer by showing the reasons for necessity of the arrest of the present applicant. In view of that, he submitted that the application for grant of anticipatory bail deserves to be allowed.

5. Learned APP strongly opposed the application on the ground that the applicant has availed all benefits by producing fabricated certificate. The said certificate is already seized, however, her custodial interrogation is required as she is to be interrogated on a material aspect of the investigation and prayed for rejection of the application.

6. Heard learned Counsel for the intervenor has also raised the objection on the ground that the applicant has attempted to implicate him falsely by alleging that the intervenor is the custodian of the said document. In fact, he is not concerned with the said documents and therefore, the application deserves to be rejected.

7. Having heard learned counsel for parties and gone through investigation papers it shows that the applicant cleared her MBBS Examination and left for Mumbai and now pursuing her practice. WhatsApp Chats filed by the applicant on record clearly show that the applicant has cooperated with the investigating agency. Learned Counsel for the applicant has also placed on record the affidavit. The Investigating Officer has also present before the Court. He admitted that the document is already seized. As far as the interrogation part is concerned, physical custody of the present applicant is not required. Moreover, the offences alleged excluding the Section 467 of the IPC are punishable with

imprisonment less than seven years and in view of the judgment of the Hon'ble Apex Court in the **Satender Kumar Antil** (supra) the Investigating Officer is under obligation to issue the notice under 41A of Cr.PC. to the present applicant which he has not complied with. As far as Section 467 is concerned, it is already observed that said section is not applicable in the present case. By considering all these aspects, the applicant was released on ad-interim anticipatory bail. Now, considering the investigation which is in progress and only for recording the statement of the witnesses. The physical custody of the present applicant is not required. In view of that, the interim protection granted to the present applicant deserves to be confirmed. Accordingly, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) The applicant **Zeba D/o Arif Khan** be released on anticipatory bail in the event of her arrest, in connection with Crime No.1258/2023 registered with Gadge Nagar Police Station, Amravati, District Amravati for the offences punishable under Sections 419, 420, 465, 467, 468, and 471 of the Indian Penal Code read with Section 11(1)(b) of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance & Verification of) Caste Certificates Act, 2009, on executing

P. R. Bond in the sum of Rs.25,000/- with one solvent surety of the like amount.

(iii) The applicant shall attend Police Station as and when required before the Investigating Officer and Investigating Officer shall issue seven days notice in advance to the present applicant. The failure of the present applicant to appear before the Investigating Officer, which result into cancellation of bail.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(v) The applicant shall furnish her cell phone number and address with the address proof.

(vi) The applicant shall surrender her degree before the Investigating Officer.

(URMILA JOSHI-PHALKE, J.)