AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2003 OF 2024

Monirul Nazrul Islam … Applicant
V/s.
The State of Maharashtra … Respondent

Mr. Sunil Rajbhar for the applicant.

Mrs. Mahalakshmi Ganapathy, APP for the respondent-State.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 12, 2025

P.C.:

1. By the present application filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant is seeking regular bail in connection with Crime Register No.9 of 2023 registered with Anti-Terrorism Squad (ATS), Kalachowki Police Station. The said crime is registered for offences punishable under Sections 420, 465, 468, 471 read with Section 34 of the Indian Penal Code, 1860, along with Rule 6 of the Passport (Entry into India) Rules, 1950, Section 12(1)(b) of the Passport Act, 1967, Section 3(1) of the Foreigners Order, 1948, and Sections 14(c) read with 14(A)(b) of the Foreigners Act, 1946.

2. The case of the prosecution, in brief, is that based on secret information received by the ATS on 26th December 2023, it was revealed that the present applicant and his wife, residing in Navi Mumbai, are allegedly Bangladeshi nationals who have illegally entered India and obtained various Indian identity documents by forging records. It is specifically alleged that the applicant had produced a forged school leaving certificate to obtain a residential certificate, and on that basis, secured other documents such as Aadhar card, PAN card, election card, etc. It is further alleged that he falsely projected himself as an Indian citizen. Based on this information, the present FIR came to be registered and investigation commenced.

3. Learned Advocate appearing for the applicant submitted that the applicant has been falsely implicated in the present case. He has been arrested on 26th December 2023 and since then, has remained in custody. The investigation is now complete and the charge-sheet has already been filed before the competent court. It is submitted that the nature of allegations is documentary, and no further custodial interrogation of the applicant is necessary. The documents alleged to have been forged are already recovered during the investigation. The applicant has no criminal antecedents. It is also submitted that the co-accused, who is the applicant’s wife, has already been granted bail by the learned Magistrate. Therefore, the applicant deserves to be released on bail.

4. On the other hand, learned APP has opposed the application for bail. She submitted that the applicant is a Bangladeshi national who has unlawfully entered India and obtained various identity documents such as Aadhar card, PAN card, and voter identity card by using forged documents. It is submitted that he prepared a residential certificate by submitting a forged school leaving certificate, allegedly from a school in West Bengal. However, the concerned school has communicated that the applicant's name does not appear in their school records. Further, the Grampanchayat authorities of village Hurshi, District Murshidabad, West Bengal, have stated that the applicant is not a resident of the said village. The statements of other local witnesses, including one Najrool Shaikh, also confirm that the applicant is not a native or a family member residing in that village. It is thus submitted that the documents relied upon by the applicant to claim Indian citizenship are forged.

5. It is further contended by the learned APP that although the applicant's wife has been granted bail, the same was on humanitarian grounds as she is a woman with two minor children, and not on merits. Hence, the applicant cannot claim parity on that basis. She also expressed apprehension that if the applicant is released on bail, there is a strong possibility that he may abscond and secure a new identity, thereby evading the course of justice. She submitted that the applicant poses a potential threat to national security, especially in view of the fact that he has allegedly been residing in the country under a false identity and is running a business in the name of "Mubassir Facility Centre" as a paying guest accommodation. It is submitted that the applicant has failed to produce any authentic document to prove that he is an Indian citizen. Therefore, it is urged that the present bail application be rejected.

6. I have carefully considered the submissions made by the learned counsel for the applicant and the learned APP for the State. I have also perused the charge-sheet and the documents placed on record. The allegations against the applicant are serious in nature and relate to his illegal entry into India, falsely claiming to be an Indian citizen, and securing various identity documents such as Aadhar card, PAN card, election card, etc., by using forged documents.

7. From the investigation papers, it appears that the entire case revolves around the allegation that the applicant is a Bangladeshi national who has illegally entered India and, with an intention to reside and carry out business activities, has obtained Indian identity documents through fraudulent means. It is alleged that he procured a fake school leaving certificate and used the same to secure a residential certificate, and based on that, applied for and obtained other government-issued documents. These documents form the basis for his claim of Indian citizenship.

8. It is further seen from the record that the concerned school, from where the applicant claims to have obtained his school leaving certificate, has categorically denied having any student by the name of the applicant in their records. The concerned Grampanchayat has also clarified that the applicant is not a resident of the said village. Independent witnesses from the village have also confirmed that the applicant is not known to them and has never resided there. These circumstances raise a strong prima facie case regarding the applicant's foreign origin and the falsity of his claims.

9. It is also alleged that on the basis of the forged documents, the applicant is running a business under the name of "Mubassir Facility Centre," which appears to be a paying guest accommodation. This indicates that the applicant has not only secured false identity but is also engaged in commercial activities using the said identity. Such conduct, if ultimately proved to be true, poses a serious concern not only in terms of law and order but also with regard to national security.

10. Although the learned advocate for the applicant has argued that the offences are documentary in nature and that the applicant's wife has already been released on bail, I find that such a submission is not persuasive in the present case. The release of the co-accused (wife) was granted by the Magistrate on humanitarian grounds as she is a woman and mother of two minor children. No finding was recorded on the merits of the allegations against her. Therefore, the applicant cannot claim parity.

11. The apprehension raised by the prosecution that the applicant may abscond if released on bail, appears to be reasonable and cannot be ignored. The very nature of the allegations against the applicant reflects that he has allegedly succeeded in creating a false identity for himself. The prosecution has brought on record prima facie material to show that the applicant has forged essential documents such as a school leaving certificate, based on which he obtained a residential certificate, and thereafter secured Aadhar card, PAN card, voter ID and other documents which are otherwise issued only to Indian citizens.

12. Such conduct indicates that the applicant possesses both the means and the know-how to fabricate a new identity and to remain undetected. If the applicant is released on bail, there exists a real and substantial possibility that he may misuse the liberty granted to him and either go underground or escape to another place or country under a different name and forged identity. This would seriously hinder the progress of the trial and defeat the ends of justice.

13. It is also pertinent to note that the applicant's true identity and nationality are still under serious dispute. In such circumstances, if he is released, it would be extremely difficult for the prosecution to ensure his presence during the trial, particularly when he has already demonstrated the ability to live in India undetected using a false identity.

14. The Supreme Court, in various decisions, has consistently held that where there is a likelihood of the accused fleeing from justice or tampering with evidence, the Court must exercise caution while considering bail. In the present case, the material placed on record and the pattern of conduct alleged against the applicant reasonably support the apprehension of the prosecution. This Court is, therefore, of the considered view that the possibility of the applicant misusing his release on bail cannot be ruled out and this factor weighs heavily against grant of bail at this stage.

15. It is also important to note that the applicant has not produced any genuine, reliable, or official document to prima facie support his claim that he is a citizen of India. Despite being given an opportunity during the investigation, the applicant has failed to place on record any birth certificate, school record, domicile certificate, or any other government-issued document which could establish his Indian citizenship. On the contrary, the documents that were allegedly used by him to claim Indian identity, such as the school leaving certificate, have been found to be forged, as confirmed by the concerned school authorities.

16. In a situation where the very identity and nationality of the applicant is under serious question, and no prima facie material is placed before the Court to demonstrate that the applicant is a lawful citizen of this country, it would not be safe to release such a person on bail. This is not a mere case of use of forged documents for personal gain, but a case that strikes at the core of sovereign functions of the Indian State, such as the issuance of national identity documents and the regulation of entry and stay of foreign nationals within its territory.

17. The allegations against the applicant are not isolated or accidental in nature. They reveal a systematic and deliberate attempt to obtain citizenship-related documents by misleading the authorities. This kind of fraud undermines the integrity of official records and weakens the system meant to identify and regulate the presence of foreign nationals in the country. If such conduct is lightly viewed or ignored at the stage of bail, it may send a wrong signal and encourage similar offences by others.

18. The offence is, therefore, not just against an individual or a department, but against the public interest and national security.

The seriousness of the allegations, the lack of evidence supporting his Indian citizenship, and the potential misuse of bail, collectively weigh against granting bail to the applicant at this stage. The Court is thus not inclined to exercise its discretion in favour of the applicant.

19. At this stage, the Court is not required to go into the question of whether the applicant is ultimately guilty or not. However, the nature of the allegations, the material collected during the investigation, and the seriousness of the implications arising from the alleged acts of the applicant, collectively dissuade this Court from exercising discretion in his favour.

20. In view of the aforesaid discussion and having regard to the serious nature of allegations, the lack of prima facie proof of Indian citizenship, and the reasonable apprehension that the applicant may abscond or misuse the liberty if released on bail, this Court does not find it appropriate to grant bail to the applicant at this stage.

21. The application, therefore, stands rejected.

22. It is clarified that the observations made herein are only for the purpose of deciding the present bail application and shall not influence the trial of the case in any manner.

(AMIT BORKAR, J.)