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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 809 OF 2025

AKBARULLAH BARAKATULLAH KHAN & ANR APPLICANTS

VERSUS

STATE OF MAHARASHTRA & ANR. RESPONDENTS

Ms. Heena Mushtaq Ahmed for the Applicants.

Ms. Supriya Kak, A.P.P. for the State.

Mr. Anish Desai a/w. Adv. Genevieve Lobo, Ms. Mrunmayi Moholkar,
Mr. Prathamesh Waikar, Mr. Chinmay Sawant for the Respondent No.2.

Mr. Swapnil Damore, P.S.I., Chunabhatti Police Station present.

CORAM : RAJESH S. PATIL, J.

DATE : 4th APRIL, 2025

P.C. :-

This application is filed for pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with Crime No. 77/2024 dated 20th February, 2024 registered with Chunabhatti Police Station, Brihnamumbai Shahar for the offence punishable under Sections 420, 177, 191, 192, 193, 196, 198, 201, 464, 465, 471 r/w. 34 of the Indian Penal Code, 1860.

2. On the complaint filed by the victim, an FIR was lodged. The

role of the present applicants have been mentioned in the said FIR.

3. It is submitted on behalf of the applicant that they are innocent persons. They have not committed any kind of crime showing their son as underage. The applicant had hired an agent to obtain birth certificate. The said agent handed over the birth certificate of the son of the applicants. The applicants believed the said certificate to be genuine, based on which the present applicants have acted. There was no *mens rea*. The applicants is ready to co-operate with the police. The custody of the present applicants is not necessary.

4. The learned A.P.P and the learned counsel for the first informant have opposed this anticipatory bail application. Based on the certificate produced by the applicants, the son of the applicants was able to secure bail. The applicants are well aware of what is the age of their son and they should not have used the forged document. By doing so in the Crime No. 371 of 2023, they were able to refer the matter of their son, to the Juvenile Court.

5. I have heard the learned counsel for both the sides and the argument of the learned counsel for the first informant. The learned A.P.P has produced on record the letter of the Municipal Corporation (who maintains the register of births and deaths), as regards the

issuance of the birth certificate of son of the applicants. The Municipal Corporation by their letter dated 4th October, 2023, mentioned that the copy of certificate referred by the applicants herein, a note of the same is not found in the registry of the Municipal Corporation. The letter of the Corporation itself could be enough for me to hold that there is no merit in the present anticipatory bail application.

6. As far as the applicants are concerned, except for stating that they have contacted an agent to obtain birth certificate, they have not mentioned as to how they got possession of the said birth certificate. Therefore, there is presumption that the applicants have obtained the birth certificate of their son by forging the documents.

7. Considering the gravity of the offence, according to me case has not made out to grant pre-arrest bail.

8. Hence, **the present anticipatory bail application stands rejected.**

[RAJESH S. PATIL, J.]