

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

36 BAIL APPLICATION NO.1742 OF 2021

1. Shaikh Raziuddin Fahimuddin

2. Mudasir Ashfaque Mohammad

3. Abu Bakar Alhamid Hadi

4. Shaikh Mohiuddin Fahimuddin ...Applicants

Versus

The State of Maharashtra ...Respondent

...
Advocate for Applicant : Shri Nilesh S. Ghanekar
APP for Respondent – State : Shri V. S. Badakh
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CORAM : M. G. SEWLIKAR, J.

DATED : 31-01-2022

PER COURT :-

1. By this application, applicant Nos. 1 to 4 are seeking their release on bail in connection with Crime No. 473/2021 registered with Jinsi Police Station, District Aurangabad under Sections 420, 465, 466, 468 read with Section 34 of the Indian Penal Code.

2. Briefly stated, prosecution case is that on 14th December, 2021 the informant who is the PSI got the information that in Pulse Hospital near VIP Function Hall, Aurangabad some persons

were issuing fake Covid - 19 certificates by accepting money without vaccinating the patients. Accordingly, the informant along with panchas raided the spot. In Pulse Hospital, he found three persons namely Shaikh Raziuddin Fahimuddin (applicant No.1), Abu Bakar Alhamid s/o Hadi Alhamid (applicant No.3) and Mudasir Ashfaque Mohammad (applicant No.2). Upon inquiry about the issuance of fake Covid-19 vaccination certificate, the applicants gave evasive reply. The informant checked the mobile phone of the applicants and he found that in the mobile phone of applicant No. 1 fake vaccination certificate of various beneficiaries were downloaded. It was a Redmi Note-9 mobile. After grilling these three applicants, it was revealed that they were appointed by applicant No.4 Dr. Shaikh Mohiuddin Fahimuddin. During their interrogation, it was revealed that these applicants issued certificates of vaccination without actually vaccinating the patients and for doing so, they charged Rs. 600/- to 1,000/- per patient. Accused Nos. 5 and 6 i.e. nurses by the name of Smt. Adhav and Smt.Shahenaj used to register the names of fake beneficiaries. On these allegations, FIR came to be lodged under the aforesaid sections.

3. I have heard Shri Ghanekar, learned counsel for the applicant and Shri Badakh learned APP for the State.

4. Learned counsel Shri Ghanekar submits that in order to

invoke the provisions of Section 420 of the IPC, there has to be a false representation to the knowledge of the maker and on account of the false representation, the person deceived must have been induced to deliver some property or valuable security to the person who made the representation. In the case at hand, the allegations are that the applicants obtained Rs.600/- to Rs. 1,000/- for issuing fake vaccination certificates. He submits that there is no representation on the part of the applicants and nobody was induced to deliver the property to the applicants. He submits that none of the patients had any grievance against the applicants nor any of these patients lodged FIR against the applicants. He submits that, therefore, provisions of Section 420 of IPC can not be invoked. He further submits that at the most offence under Section 218 of IPC can be invoked against the applicants. So far as the forgery is concerned, the offences under sections 465 and 466 are non-cognizable and bailable.

5. Learned APP Shri Badakh submits that the applicants issued false certificates by obtaining Rs. 600/- to Rs. 1,000/- from the patients without actually vaccinating the patients. He submits that by these actions the Government has been cheated. He, therefore, submits that the application deserves rejection.

6. I find substance in the submissions of learned counsel for the applicant Shri Ghanekar. Section 420 of IPC can be pressed into service when there is representation which is false to the knowledge of the maker and on the basis of this representation the person deceived is induced to deliver the property to the maker of the representation or to any other person at the instance of the maker. In the case at hand, none of the persons who are not vaccinated have complained against the applicants. The statements of some of the patients have been recorded. They have stated that they paid Rs. 600/- per person to applicant No.4 for getting certificates but they were not actually vaccinated. In this view of the matter, I am inclined to release the applicant on bail. They are behind the bars for more than one and a half months. Hence the order :-

ORDER

- (i) Application is allowed.
- (ii) Each of the applicants be released on bail on their furnishing PR bond of Rs. 50,000/- (Rupees Fifty Thousand only) with one solvent surety in the like amount in connection with Crime No. 473/2021 registered with Jinsi Police Station, District Aurangabad under Sections 420, 465, 466, 468 read with Section 34 of the Indian Penal Code and on condition that they

shall not indulge in similar kind of activities and on condition that they shall attend the concerned Police Station on every Sunday between 12.00 and 2.00 .p.m. till filing of the charge-sheet.

(iii) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion.

[M.G. SEWLIKAR, J.]

shp/-