

Prasad

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

926 CRIMINAL BAIL APPLICATION NO. 2659 OF 2025

Vinaykumar Ashok Khatu	...Applicant
Versus	
State Of Maharashtra and Anr.	...Respondents

Mr. Sudeep Pasbola a/w Kaushalya Patil and Smita Sonavane, for the Applicant.

Mr. P.P. Malse, APP for the Respondent-State.

Mr. Rizwan Merchant a/w Ramiz Shaikh, Suraj Pareshi and Aradhya Sharma, for the Respondent No.2.

Ms. Neelima Kulkarni, AACP Railway, present.

CORAM: R. M. JOSHI, J.

DATED: 08th MAY, 2026.

PC:-

1. This is a case wherein there is an allegation against the present Applicant that he fabricated the orders of this Court as well as the orders passed by other authorities and submitted the same to the Informant. The Applicant is an Advocate and Informant was his client. Amongst the other contentions, it is the case of the Informant that on or before 12th December, 2022, orders dated 17th October, 2022 and 12th December, 2022, passed in SA (ST) No.22983 of 2022 were given by the Applicant to the Informant. Amongst the other contentions the Informant claims that later on it was revealed that the said orders are fabricated documents. Similar allegations are made in respect of other orders.

On the basis of said FIR, the offence came to be registered against the App vide Crime No.308 of 2025 registered with Aazad Nagar Police Station for offence punishable under Sections 409, 420, 465, 466, 467, 468, 471 and 474 of the Indian Penal Code, 1860. The investigation into the said crime was conducted. It resulted into filing of charge-sheet against the Applicant on 17th January, 2025.

2. Amongst the other contentions, during the course of hearing it was the contention of the learned senior counsel appearing for the Applicant that there are WhatsApp chats between the Applicant's Advocate and the Informant client indicating that much after allegedly providing the copies of the orders of this Court, there was a conversation between them with regard to the pendency of the said proceedings before the High Court. It is thus argued that there is reason to believe that this is a case of false implication of the Applicant in this crime.

3. This contention was opposed by learned APP by pointing out that this is a case wherein there are statements of witnesses regarding handing over fabricated orders of this Court by the Applicant to the Informant.

4. Learned counsel for the Informant also opposed the grant of bail on various grounds, including the antecedents of the Applicant and that similar allegations are made against him of fabrication of documents in the past. It is argued that there is *prima facie* material on record to show that it is the Applicant who has given orders in question to the Informant. During the course of hearing it was also sought to be argued that documents / WhatsApp chats sought to be produced on record by the Applicant

are not collected during the course of investigation. He claims that that said documents in any case cannot be considered as evidence in view of the fact that the same was not supported by the certificate under Section 65B of the Indian Evidence Act, 1872, nor are the documents primary evidence. He sought to take this Court through the provisions of Evidence Act in order to support his submission. He placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***D. Venkatasubramaniam & Ors. v. M.K. Mohan Krishnamachari & Anr.***, wherein according to him, it is not open for the High Court to interfere into the investigation and that it is prerogative of the investigating agency to carry out the investigation.

5. This is a case wherein there is an allegation that the orders of this Court dated 17th October, 2022 and 12th December, 2022 are fabricated and are sought to be relied upon. There is *prima facie* material on record to show that these orders are bogus documents. Since it is the case of the fabrication of documents of this Court with an order, the investigation ought to have been done in an utmost serious manner and that all efforts ought to have taken in order to find out as to who has forged the said documents.

6. During the course of hearing, specific query was made to the learned APP to inform this Court as to the evidence collected during the course of investigation indicating fabrication of such orders. Investigating Officer who was present during the course of said hearing, was unable to show any evidence been collected during the course of investigation as to who has fabricated / prepared the bogus orders. This is a shocking state of affair that

the investigation in this case has been done in the most casual manner. There is reason to believe that the investigation was done not to find out the real culprit who prepared the said bogus orders, and that it was done in predetermined manner and in one direction only.

7. Apart from this there is material on record to show that the Applicant has relied upon the fact that there are screenshots of WhatsApp chats between the Applicant and the Informant which according to him indicates conversation between them much after the said orders were allegedly given by the Applicant to the Informant. There is further evidence on record to show that investigating officer was fully aware of the fact that the said documents were being placed on record by the Applicant before the Sessions Court as well as before this Court in anticipatory bail application. Moreover, the said documents are shown as part of the charge-sheet. This clearly indicates that Informant had knowledge of the said documents much after they were found to be true indicate that there was conversation between the Applicant and the Informant with regard to the proceedings in which bogus orders were already given to him prior to 12th December, 2022. In this case it was absolutely necessary for the Investigating Officer to investigate into the said aspect. There is material on record to indicate that there was seizure of mobile phone of the Applicant however it was returned back. This act is not of a prudence. Thus, inspite knowledge of possibility of existence of such evidence, the Investigating Officer has avoided to carry out investigation in this regard. It is not expected from investigating agency to conduct investigation in pre-meditated

manner and it must make an endeavour to reach to the truth of allegation. Such attempt must also be seen from evidence collected in the investigation, which is absent herein.

8. This Court finds no substance in the contention of counsel for the Informant that it is prerogative of the Investigating Officer to decide as to whether to investigate into the material which is sought to be produced by the accused. No doubt, it can be done so provided that such material does not lead to any different conclusion if found to be true. In case, the WhatsApp chats are found to be genuine, the same would support the case of the Applicant that this is a case of false implication at the behest of the Informant. In the event it was mandatory for the Investigating Officer to carry out investigation in this regard and to ascertain as to whether this is a case wherein fabrication of documents is by the Applicant or for the sake of the Informant or any other person. This has not been done and no explanation of whatsoever nature is sought to be provided. This Court therefore is of *prima facie* opinion that the investigation herein has not been done in appropriate manner.

9. It would be relevant to take note of paragraph No.24 of the judgment of Hon'ble Supreme Court in the case of ***D. Venkatasubramaniam & Ors.*** (*supra*), which reads thus:-

"24. We are not impressed by the submission made by the learned counsel for the respondent that the High Court did not issue any directions but merely disposed of the petition with the observations reminding the police of its duty. The question that arises for consideration is whether there was any occasion or necessity to make

those "observations" even if they are to be considered to be observations and not any directions. It is not even remotely suggested that there was any deliberate inaction or failure in the matter of discharge of duties by the police. There was no allegation of any subversion of processes of law facilitating the accused to go scot-free nor there is any finding as such recorded by the High Court in its order. The power under Section 482 of the Code can be exercised by the High Court either suo motu or on an application (i) to secure the ends of justice; (ii) the High Court may make such orders as may be necessary to give effect to any order under the Code; (iii) to prevent abuse of the process of any Court. There is no other ground on which the High Court may exercise its inherent power. In the present case, the High Court did not record any reasons whatsoever why and for what reasons, the matter required its interference. The High Court is not expected to make any casual observations without having any regard to the possible consequences that may ensue from such observations. Observations coming from the higher Courts may have their own effect of influencing the course of events and process of law. For that reason, no uncalled for observations are to be made while disposing of the matters and that too without hearing the persons likely to be affected. The case on hand is itself a classic illustration as to how such observations could result in drastic and consequences of far reaching in nature. We wish to say no more."

10. This Court is conscious of the position of law that unnecessary interference in the investigation at the hands of the High Court is not expected. However, when there is apparent fact on record that orders of this Court are fabricated, this Court cannot remain as mute spectator of the irresponsible / casual investigation being carried out in this case. This Court therefore has no

hesitation to issue directions for further investigation to be carried out in this case to ascertain as to who has fabricated the said orders of this Court as well as the other orders as alleged. Such direction is absolutely necessary in order to ensure that the majesty of law is maintained and the real culprit who has fabricated documents is brought to the book. Hence, following order.

ORDER

- i) The Senior Police Inspector of Azad Maidan Police is directed to conduct further investigation, more particularly from the point of view of documents i.e. WhatsApp record placed by the Applicant before this Court.
- ii) The investigation be concluded before next date of hearing.
- iii) The report of the further investigation be produced before this Court for its consideration on 15th June, 2026.

11. Stand over to 15th June, 2026.

12. Learned APP to communicate this order to the concerned.

(R. M. JOSHI, J.)