



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 760 OF 2025

Radha Narayan

..... Applicant

VERSUS

State of Maharashtra

..... Respondent

Shri Satish Maneshinde, Senior Advocate a/w. Adv. Anandini Fernandes, Adv. Shanice Mansukhani, Adv. Pratyush Ranjan, Adv. Kedar D. for the Applicant.

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

Adv. Irfan A. A. Ansari i/b. Adv. Yogesh Dalvi for the Complainant.

CORAM : RAJESH S. PATIL, J.

RESERVED ON : 19th MARCH, 2025

PRONOUNCED ON: 27th MARCH 2025

ORDER :-

1. This application is filed under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023 for seeking pre-arrest bail in connection with the First Information Report (FIR) No. 148/2025 registered with the Chunabhatti Police Station, Mumbai, for the offence punishable under Sections 409, 420 of the Indian Penal Code, 1860.

2. The case of the prosecution in the complaint is that the School Education Department provides food grains to aided schools for students up to Class VIII under the Mid-day Meal scheme. The schools are expected to provide cooked food to the students with the assistance of self-help groups. However, during pandemic, the food-grains were to be given directly to the students. It appears that in the month of March 2021, the applicant's school received 6400 kg. of harbhara (chickpea) and approximately 6400 kg. of masoordal under the said scheme. The school however, distributed 3481 kg. of each of the grain type to the eligible school students and the balance quantity of 2992 kg. of Harbhara (chickpea) and 2992 kg of masoordal were not distributed to the eligible students. On an enquiry being made to the then Principal of the school/the present applicant, an answer was given that due to waterlogging in the school, the balance quantity of both the grains got spoiled and needed to be discarded. However, the then Principal/the present applicant did not inform this fact to the Municipal Corporation of Greater Mumbai and the Educational Officer of the State Government. Furthermore, no information was submitted regarding the vehicle used for discarding the food grains, the location where the goods were discarded, or the photographs and video

footage of the discarding process was not made available. So also, there is no record (abhilekh) available. Additionally, the damage caused to the school due to waterlogging has not been reported. The applicant has misappropriated food grains worth Rs. 4,90,688/-. Similarly, showing that the grains got spoiled, the applicant has cheated the State Government and caused loss to the school students. Accordingly, an FIR has been lodged.

3. The learned Senior Advocate, Shri Satish Maneshinde, on behalf of the applicant, submitted that the applicant has taken retirement under the Voluntary Retirement Scheme (VRS) from her position as the Principal of the school. The applicant has deep roots in the society. The food grains that were received were distributed to the eligible students. Due to heavy rains during the pandemic period, the remaining quantity of food grains was spoiled. Due to the constraints of the pandemic, this fact could not be communicated to the Educational Department of the State Government. The Trustees are running three schools. Without admitting the guilt if the complainant feels there is a loss of Rs.4,90,688/-, in order to show her bonafide, the applicant is ready to deposit a sum of Rs.5,00,000/-.

4. The learned Senior Advocate further submitted that, as a

precaution any measure, after becoming aware of the damage caused to the remaining food grains, a panchanama was conducted by the school authorities on 21st June 2021. In the said panchanama, the committee, consisting of the Principal (the present applicant), two parents of students studying in the school, and two teachers, signed the document. The panchanama proves that, due to heavy rains and waterlogging, the remaining food grains were spoiled. The list of the students who received the benefits of the scheme along with their signature is available on a chart. He submitted that the custody of the present applicant is not needed. She is ready to cooperate with the investigating machinery.

5. The learned APP appearing for the State submitted that depositing a sum of Rs.5,00,000/- for the purpose of grant of pre-arrest bail will be a wrong precedent as the offence involved are of forgery and misappropriation. The learned APP further submitted that if there had indeed been damage to the grains due to waterlogging, any prudent person could have clicked at least a few photographs, if not with a regular camera, then at least with a mobile phone. The applicant, being the head of the institute as the Principal, did not even think it appropriate to inform the Educational Officer and the

Municipal Corporation about the damage to the food grains. Even an email could have demonstrated the applicant's genuineness. Now the applicant takes the defense that she has taken VRS from her services, and therefore, she should be granted pre-arrest bail. The applicant was the Principal at the relevant time. Just because she has resigned from her position does not absolve her from liability. She submitted that for the purpose of conducting investigation, cooperation of the present applicant is necessary. She has not cooperated with the investigating agency, therefore, the present application for pre-arrest bail should be rejected.

6. The learned counsel appeared on behalf of the complainant submitted that a Public Interest Litigation is pending in this Court against the Educational Department, Police Authorities, in which the present applicant is a party respondent no.12. He submitted that due to genuine concern shown by the complainant, the relevant authorities are taking actions against the school authorities.

7. I have heard the learned counsel for the parties and the learned APP for the State. With the assistance of the learned counsel appearing for the parties, I have also gone through the FIR and the documents on record.

8. The Supreme Court in case of *Sumitha Pradeep vs. Arun Kumar*

*C.K. and another*¹ in paragraph 12 has held as under :-

“..... In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

(Emphasis supplied)

9. A similar view has been taken by the Supreme Court in the case of *the C.B.I. vs. Anil Sharma*², in paragraph 4 which reads as under:-

“4. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with

1 (2022) 17 SCC 391

2 AIR OnLine 1997 SC 797

the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible Police Officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring would not conduct themselves as offenders.”

(Emphasis supplied)

10. There is no explanation from the applicant being a Principal at the relevant time as to why she did not even thought it appropriate at least to click some photographs, if at all there was loss of food-grains. She did not even think it appropriate to write at least a email to the Municipal Corporation and the Educational Officer. The panchanama which is relied upon by the school is creating a doubt, on its bare perusal as the said panchanama is dated 21st June 2021, signed by the present applicant and two of her teachers and two parents. There is no explanation as to why the alleged panchanama dated 21st June 2021 was not immediately sent to the concerned authorities i.e. the Municipal Corporation of the Greater Mumbai and the Educational Officer. In the city of Mumbai due to rains there is water-logging in certain parts of the city. Presuming for a minute that there was water-logging in the year 2021 in the school compound, then certainly the said water-logging must be happening every year. The present applicant being a Principal - head of the institution, could have been

avoided this situation by storing the food-grains on higher floor of school building. No such efforts were taken by the applicant for the reasons best known to her.

11. The applicant's willingness to deposit the loss of Rs. 5,00,000/- with this Court will not absolve her from liability, and the offence committed by her cannot be indirectly compounded in this matter. This Court cannot serve as a forum to adjust the loss suffered by the State Government by accepting payments from the accused.

12. The applicant could have informed the State Government and Municipal Corporation about the loss, at least by email. Applicant also did not think it appropriate to click photographs from mobile phone to show that the food grains were damaged. The mid-day meals are provided to the students by the Government in order to give them nutrition meals. However, it is found that the purpose for which Government is spending public fund is not reaching the beneficiaries (students). The trust seems to be supporting the applicant. The principal is not showing true and correct facts. *Prima facie* it appears that there's something more than what meets the eye. Any prudent person once it comes to his/her knowledge that a large quantity of food is wasted would have at least clicked 1 or 2 photographs. And is

the food-grains were not owned by the school, it is common sense, that the authority which had provided the food-grains would have been informed about the loss of food-grains immediately.

13. Considering the contents of the FIR, the documents on record and considering the view taken by the Supreme Court in above judgments, according to me, no case is made out to grant protection to the present applicant. The physical presence of the present applicant is necessary for the purpose of interrogation. **The anticipatory bail application stands rejected and disposed of accordingly.**

14. By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

[RAJESH S. PATIL, J.]