

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

CRIMINAL APPLICATION NO.2439 OF 2015.

**UMAKANT GIRDHAR SALUNKHE & ORS.
VERSUS
THE STATE OF MAHARASHTRA.**

**MADHAV DANGAL PATIL : First Informant. (Applicant in
Cri.Appln.No.3017/15.)**

Appearance ==>

Mr. N.B. Suryawanshi, Advocate for the Applicants.

Mrs. S.G. Chincholkar, Additional Public Prosecutor for the State of Maharashtra.

Mr. Milind Patil (Beedkar), Advocate for First Informant. (Applicant in Cri.Appln.No.3017/15.)

CORAM : V.M. Deshpande, J.

DATE : 25th June, 2015.

Per Court :-

Present Criminal Application is filed by the Applicants for grant of anticipatory bail, since they are apprehending their arrest in connection with CR No. 10/2015 registered with Police Station, Marwad, Taluka – Amalner, District - Jalgaon for the offences punishable under Section/s 120(B), 466, 467, 468, 471, 474, 420 read with 34 of the Indian Penal Code.

[2] Heard Mr. N.B. Suryawanshi, learned counsel for the Applicants, Mrs. S.G. Chincholkar, learned Additional Public Prosecutor for the State and Mr. Milind Patil (Beedkar), learned counsel for First Informant (Applicant in Cri.Appln.No.3017/15.), in extenso.

[3] Trust by name “Mata Nanda-Bhavani Shikshan Sanstha” of village Dhar, Taluka – Amalner, District – Jalgaon is duly registered under the Bombay Public Trust Act. Said trust runs school by name “Kailaswasi Aabasaheb N.L. Patil Madhyamik Vidyalaya, Dhar, Taluka – Amalner, District – Jalgaon”. Applicant No.1 – Umakant is the Head-Master of said School; where-as Applicant Nos. 2 to 5 are the President, Secretary, Vice President and one of the Trustee of the said Trust.

[4] First Informant – Madhav Patil filed a complaint before the learned Judicial Magistrate, First Class under Section 156(3) of the Code of Criminal Procedure. In the said complaint, it is alleged that present Applicants, who are in control of the School have submitted bogus documents in respect of 10 students to show that they are handicap and, thereby, they started three units in the school for physical handicap students in consonance to the government resolution dated 31st August, 2009 (शालेय शिक्षण व क्रिडा विभाग, शासन निर्णय क्रमांक आयईडीएस/२००९/१६५/०९/असंक, मंत्रालय विस्तार भवन, मुंबई, दिनांक ३१ ऑगस्ट, २००९).

According to the complaint, in order to procure the grants from the Government, in view of the fact that units run by the School for handicap students were admissible for 100 % grants, present Applicants have deliberately submitted those bogus certificates and have claimed the grants and, thereby, they had caused the loss the the public exchequer.

[5] The present complainant, admittedly was the founder trustee of the said Trust. Dispute is pending between the present Applicants and the first informant / Complainant in respect of the 'change' that has occurred, according to the present Applicants in a meeting of Managing Committee of said trust. Said dispute is pending before the Joint Charity Commissioner,

Nashik, in view of the rejection of the 'change report' filed by the present Applicants. Be that as it may, dispute appears to be going on in between the complainant and the present Applicants.

[6] The crux of the matter is, whether the present Applicants have procured the grants admissible to the school on the basis of bogus certificates.?, which is the allegation in the Complaint.

[7] On the last day of hearing, the learned counsel for the Applicants has placed on record the communication given by the Information Officer and Deputy Education Officer, (Secondary), Zilla Parishad, Jalgaon (जानं./माध्य/शिक्षण/एस-८/आर.आर./२५०२/२०१५, शिक्षणाधिकारी /माध्य/ जि.प.जळगांव, दिनांक ०५/०५/०१५.) Said document was taken on record and marked as “X”. That clearly shows that, by the said document, the Deputy Education Officer has unequivocally pointed out that from 2012-13 till today i.e. 5th May, 2015 no grants were released in favour of the said School for running the units for handicap students.

Even this fact is also not disputed by Mrs. S.G. Chincholkar, learned Additional Public Prosecutor for the State.

[8] Further, today, Mr. N.B. Suryawanshi, learned counsel for the Applicants has submitted that on 10th June, 2015 the Information Officer and Deputy Education Officer, (Secondary), Zilla Parishad, Jalgaon has also given a communication - जानं./माध्य/शिक्षण/एस-१/आर.आर./५२/२०१५, शिक्षणाधिकारी/माध्य/जि.प.जळगांव, दिनांक १०/०६/०१५ which shows that from the year 1995-96 to 2013-14 even non salary grants are also not released in favour of the school. Said document is also taken on the record; since it has bearing on issue and it is marked as “Y” for the purpose of identification.

[9] Thus, these two documents, which are issued from the office of the Education Department, Zilla Parishad, Jalgaon show that, prima facie the allegation made in the complaint that present Applicants have obtained and/or secured or procured the grants from the Government to run the handicap units, is prima facie not substantiated.

[10] The another aspect of the matter is to the effect that present Applicants have submitted the bogus handicap certificates showing students are handicap.

[11] Mrs. S.G. Chincholkar, learned Additional Public Prosecutor upon instruction from the Investigating Officer, who is personally present in the court hall has submitted that all those certificates are already in custody and possession of the Investigating Officer.

In that view of the matter, for that, surely custody of the present Applicants is not at all required.

However, Mrs. S.G. Chincholkar, learned Additional Public Prosecutor would submits that presence of the Applicants is essential for interrogation purpose. She however, upon instructions from the Investigating Officer submits that, purpose of the Investigating Officer would subserve if the Applicants are directed to attend the Police Station and join the investigation by remaining present themselves in the Police Station. That leads me to pass the following order :-

ORDER

- (i) Criminal Application is allowed.
- (ii) In the event of arrest, Applicant No.1 – Umakant Girdhar Salunkhe, Applicant No.2 – Ganesh Dhondu Patil, Applicant No.3 – Himmat Shivdas Patil, Applicant No.4 – Ganesh Mahadeo Pawar and Applicant No.5 – Gulab Atmaram Patil shall be released on anticipatory bail on they executing P.R. Bond of Rs. 5,000/- [Rs. Five Thousand.] each with one solvent surety in the like amount, in connection with CR No. 10/2015 registered with Police Station, Marwad, Taluka – Amalner, District - Jalgaon for the offences punishable under Section/s 120(B), 466, 467, 468, 471, 474, 420 read with 34 of the Indian Penal Code.
- (iii) The Applicants shall attend the Police Station, Marwad, Taluka – Amalner, District - Jalgaon and they shall be with the Investigating Officer for the purpose of interrogation, during the period from 30th June, 2015 to 3rd July, 2015 between 11.00 a.m. to 2.00 p.m.
- (iv) Applicants shall not extend any threat to the Complainant – First Informant.
- (v) With this Criminal Application is allowed and same is disposed of, accordingly.

(V.M. DESHPANDE, J.)