

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

CRIMINAL APPLICATION NO.4548 OF 2015

1. Shaukatkhan s/o Ahmedkhan Pathan,
Age 55 years, Occu. Agriculture
 2. Arifoddin s/o Karimoddin Ansari,
Age 40 years, Occu. Agriculture
 3. Irfanoddin Hanifoddin Shaikh,
Age 35 years, Occu. Service,

All R/o Shevali, Taluka and
District Jalna
 4. Soheli Quadri s/o Kadir Quadri,
Age 46 years, Occu. Business,
R/o Kacheri road, Jalna,
Taluka and District Jalna
- ..Applicants

Versus

1. The State of Maharashtra,
Through Police Station,
Shevali, District Jalna
 2. The Superintendent of Police,
Jalna, District Jalna
- ..Respondents

Mr S.J. Salunke, Advocate for applicants
Smt. M.S. Patni, A.P.P. for respondents

CORAM : N.W. SAMBRE, J.

DATE : 9th September 2015

PER COURT

1. The applicants are accused in Crime No.10/2012 wherein they are booked for commission of offences punishable under Sections 420, 468, 471 read with Section 34 of the Indian Penal Code.

2. The allegations against the applicants are, the applicants No.1 and 2 being office bearer of a minority institute have received the

grants from public exchequer pursuant to the Government Resolution dated 20th July 2010, which was misused.

3. It is the claim of the applicants that similar type of allegations were made against them vide Crime No.48/2010 in relation to same school for which they were granted protection from arrest by this Court by an order dated 23rd April 2010 passed in Criminal Application No.1143 of 2010.

4. Learned Counsel for the applicants has invited attention of this Court to the certification by the Block Development Officer, certifying the utilisation of grants for the purpose, for which it was meant. He has also invited attention of this Court to the litigation pending between the parties hereto, i.e. complainant and the applicants before the authority under the Bombay Public Trusts Act.

5. In view of above referred background, the claim of the applicants is that they are falsely implicated in the crime in question.

6. Application for grant of protection is opposed by learned Assistant Public Prosecutor on the ground that upon completion of investigation, charge-sheet is already filed and there is prima facie evidence available on the record against the applicants in the matter of commission of crime in question. Apart from above, it is urged that since the applicants have failed to appear before the Magistrate, the warrants are issued against them and as such, it is urged that applicants have no respect for law.

7. In the above referred background, having analysed the rival submissions, it is noted that this Court had already protected the applicant No.1 in Crime No.48/2010 by an order dated 23rd April 2010 passed in Criminal Application No.1143 of 2010 which bears the similar allegations/accusations against the applicants.

8. It is also not disputed on record that the appropriate proceedings under the Bombay Public Trusts Act are pending before the competent authority in between the applicants - office bearers and the complainant who are lodging rival claim for control of the trust.

9. In view of the fact that the certificate of utilisation of grants is certified by the public Officer i.e. the Block Development Officer, in my opinion, the same prima facie requires to be believed.

10. As such, the false implication of the applicants in crime in question cannot be ruled out. In view thereof, the applicants herein are entitled for protection. I proceed to pass the following order:

(I) In the event of their arrest, the applicants - Shaukatkhan son of Ahmedkhan Pathan, Arifoddin son of Karimoddin Ansari, Irfanoddin Hanifoddin Shaikh and Soheli Quadri son of Kadir Quadri, be released on bail in Crime No.10/2012 registered at Police Station, Shevali, District Jalna for the offences punishable under Sections 420, 468, 471

read with Section 34 of the Indian Penal Code, upon furnishing P.R. Bond of Rs.15,000/- (Rs. Fifteen thousand) along with one surety in the like amount by each of them.

(II) The applicants shall attend the concerned Police Station for three days between 10.00 am to 11.00 am.

(III) The applicants shall submit themselves to the jurisdiction of learned Judicial Magistrate, First Class, Mantha, who is directed to order release of present applicants on regular bail, keeping in mind the law laid down by the Apex Court in the matter of **Siddharam Satlingappa Mhetre Vs. State of Maharashtra and ors.**, reported in **(2011) 1 SCC 694**.

11. Criminal Application stands disposed of in above terms.

(N.W. SAMBRE, J.)

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