

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (ABA) NO.194/2015

Yadav Tukaram Bhopi

...Versus...

State of Maharashtra, through P.S. Frezarpura, District Amravati
with

CRIMINAL APPLICATION (ABA) NO.188/2015

Manishkumar s/o Ramesh Rao Shelke

...Versus...

State of Maharashtra, through Police Station Officer Frezarpura Police Station
with

CRIMINAL APPLICATION (ABA) NO.159/2015

Lavkesh Pramod Gomkale and others

...Versus...

The State of Maharashtra, through Police Station Officer, Police Station Frezarpura
Amravati, Tq. and Distt. Amravati
with

CRIMINAL APPLICATION (ABA) NO.158/2015

Pravin Sudhakar Zaporde

...Versus...

The State of Maharashtra, through Police Station Officer, Police Station Frezarpura
Amravati, Tq. and Distt. Amravati
with

CRIMINAL APPLICATION (ABA) NO.160/2015

Amol Narendrarao Chandurkar

...Versus...

State of Maharashtra, through Police Station Officer, Police Station, Frezarpura,
Amravati, Distt. Amravati
with

CRIMINAL APPLICATION (ABA) NO.136/2015

Janardan s/o Vishwasrao Mahalle

...Versus...

State of Maharashtra, through P.S.O., Frezarpura, P.S. Frezarpura, Tah. & Distt.
Amravati

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mrs. S.W. Deshpande, Advocate for applicant (in Cri.Appln.No.194/15)
Shri R.D. Wakode, Advocate for applicant in Cri.Appln. No.188/15
Shri P.R. Agrawal, Advocate for applicants in Cri.Appln.No.159/15
Shri P.R. Agrawal, Advocate for applicant in Cri.Appln.No.158/15
Shri S.S. Dhengale, Advocate for applicant in Cri.Appln.No.160/15
Shri R.D. Wakode, Advocate for applicant in Cri.Appln. No.136/15
Shri S.B. Ahirkar, APP for respondent in all Criminal Applications

CORAM : A.B. CHAUDHARI, J.
DATE : 08.07.2015

1. All these applications for grant of anticipatory bail are being disposed of by the present common order.

2. The complainant Dr. J.D Wadte, Controller of Examinations, Sant Gadgebaba Amravati University, Amravati lodged FIR with the Police Station Officer, Frezarpura Police Station, Amravati against the applicants and others about their fraudulent activities, manipulations and tampering with the confidentiality of the University Examinations for benefiting the students by unlawful means.

3. I have perused the entire FIR in all these cases lodged by him. The learned Additional Public Prosecutor has produced before me the report of the enquiry internally conducted by the University with regard to various documents and the opportunity that was given to the suspected persons including the applicants in all these cases to submit their defence. Enquiry report has been perused by me carefully so also the police case diary.

4. I have perused the reasons in respect of each of the applicants in these cases given by the learned Sessions Judge for rejecting their anticipatory bail applications. I have gone through the material relied upon by the learned Sessions Judge with the case diary and the enquiry report of the University so also the FIR. On facts, I agree with the reasons given by the learned trial Judge for rejecting the anticipatory bail applications in respect of each applicant and I quote the relevant portion from the impugned order in respect of each applicant as under :

Criminal Application No.194/2015 (Applicant : Yadav Tukaram Bhopi)

6. This applicant is the student of Engineering. After examination his answer sheets was carrying marks as 17. In re-valuation these

marks have been escalated to the extent as 47. The answer sheets are the documents. Those documents have been forged by cheating so as to make them to believe as a genuine documents. The applicant is the persons who is the real gainer in unlawful manner by such activities and for that he has taken the help of Examination Officers who have already been arrested in this case. Thus, I found that, the offences under Section 468, 471, 34 of I.P.C. is registered against this applicant.

7. The examination is the process so as to value the assessment of each candidate appeared in Examination in respect of his study done by him through out the year. The Honest students take such examination as one step they have to cross so as to become successful in their life. However, the students like applicant when use such unfair means to get clear the examination then they are not only the unlawful gainers but the right of honest students have put to loss by that. That affects the entire society. The manner in which such racket has been operated in the University examination, the modes by which such acts have been committed and how the money was used for that, are such aspects about which the police agency required the custodial interrogation of this applicant. The Hon'ble Apex Court was pleased to give factors and parameters which are required to be considered while dealing with anticipatory bail in the reported case of Siddharam (Cited Supra). The nature and gravity of accusation, exact role played by accused and the

impact of grant of Anticipatory bail in the cases of large magnitude affecting the society are such aspects in this case which made me to reject the application of the applicants for Anticipatory Bail."

Criminal Application No.188/2015 (Applicant : Manishkumar s/o Rameshrao Shelke)

8. On consideration of the investigating papers, it revealed that applicant was appointed as a daily wager at the evaluation center during summer season of 2014. Further the material placed on record speak that student Yogendra Katare met applicant through Roshan Ghormade and he has paid Rs.25,000/- to bring the papers out of the University. Said answer sheets were provided at 9 p.m. near Biyani square and thereafter again rewriting the same, it was returned at 11 p.m. On consideration of the material it revealed that the paper was written after it was earlier checked and then it was placed for re-valuation and got increased the marks.

9. Yet the investigation is in progress. Thus, considering the material placed at this stage before this Court, with the nature of offence, in my humble judgment, for just and fair investigation, it is necessary to give opportunity for custodial interrogation."

Criminal Application No.159/2015 (Applicants : (I) Lavkesh Pramod Gomkale (II) Pushpak Vinod Deshmukh and (III) Raman Sudhakar

Deshmukh)

"13. On consideration of the investigating papers which also consist of the answer sheets which are seized by the police during investigation prima facie speaks that earlier applicant Pravin Zaporde, Pushpak Deshmukh and Raman Deshmukh in the evaluation scored very less marks or 00 marks and during revaluation it were substantially increased. The answer sheets produced also prima facie speak that subsequently answers were written by affixing the answer sheets. Thus, it is necessary for investigating agency not only to find out who has supplied the answer sheets out of the University but also the blank answer papers which were subsequently affixed.

13. In case of Lavkesh it revealed that earlier he has scored only 26 marks but there is earsor and then it increased to 54. It is indigestible that without any approach his marks would have been increased by any person.

14. Yet the investigation is in progress. Thus, considering the material placed at this stage before this Court, with the nature of offence, in my humble judgment, for just and fair investigation, it is necessary to give opportunity for custodial interrogation."

Criminal Application No.158/2015 (Applicant : Pravin Sudhakar Zaporde)

"13. On consideration of the investigating papers which also consist of the answer sheets which are seized by the police during investigation prima facie speaks that earlier applicant Pravin Zaporde, Pushpak Deshmukh and Raman Deshmukh in the evaluation scored very less marks or 00 marks and during revaluation it were substantially increased. The answer sheets produced also prima facie speak that subsequently answers were written by affixing the answer sheets. Thus, it is necessary for investigating agency not only to find out who has supplied the answer sheets out of the University but also the blank answer papers which were subsequently affixed.

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14. Yet the investigation is in progress. Thus, considering the material placed at this stage before this Court, with the nature of offence, in my humble judgment, for just and fair investigation, it is necessary to give opportunity for custodial interrogation."

"7. On consideration of the investigating papers, It revealed that applicant appeared for Maths-I paper and he has got 15 marks. Thereafter he has filed an application for revaluation. In the revaluation his marks were increased to 41. However, on consideration of the answer sheets it revealed that the applicant was able to seek the answer sheets out of University and then he rewrite the answers by annexing further answer sheets. During the inquiry conducted by the University the applicant has admitted the same fact, however, shown ignorance in respect of the person who provided him paper out of the University.

8. Yet the investigation is in progress. Thus, considering the material placed at this stage before this Court, with the nature of offence, in my humble judgment, for just and fair investigation, it is necessary to give opportunity for custodial interrogation."

Criminal Application No.136/2015 (Applicant : Janardan s/o Vishwasrao Mahalle)

"8. On consideration of the investigating papers, it revealed that before filing the report an inquiry was conducted through the Committee constituted under the provisions of University Act to find out who are the reasonable persons for such mal practices. After the inquiry committee submitted the report informant has lodged the

report in police station. During the investigation a statement of Dr. Vijaya Kankale was recorded, who was appointed as a evaluator to re-value the answer sheets of the Paper-III of B.Ed. i.e. development of Education system in India. According to her statement she has completed the said work on 3.9.2014 and when again on 4.9.2014 she came to the center Ku. Shende, a girl who was scrutinizing the paper brought one answer sheet and disclosed to her about overwriting/erasor in the marks. Therefore, Dr. Kankale checked the paper and noticed that after examination of the paper some one deliberately erased the marks and increased it to 52 from 28. On inquiry it was disclosed that an initial is also put not only on the front side of the paper but also in side where the marks are erased. Thereafter, she brought this fact on 5.9.2014 to the Chief Valuation Officer, Mudliyar and on inquiry came to know that it was done by present applicant.

9. *No doubt, one may say that Dr. Kankale to save herself made such statement recorded by the police after filing of the report on 17.1.2015. The documents revealed that the paper of Priyadarshini Sanjayrao Ghorpade was checked on 3.9.2014. It is to be noted that the documents revealed that on very next day the same fact was brought to the notice of Chief Evaluator by Smt. Kankale with the application of job-worker Ku. Shende. Thereafter, an inquiry was made on*

6.9.2014 with applicant in presence of Prof. Dr. H.T. Thorat and the present applicant admitted that there was increase in the marks but shown ignorance about who has done the same. Further on inquiry about initials put at the places where marks were increased, he submitted that as evaluator was not ready, hence he has put the initials and when it was brought to his notice that he has put the signature, he said, "I am sorry" and thereafter immediately he preferred an application that due to his ill health he be relieved from the job of Deputy Chief Evaluation Officer. Further the documents speak that on the same day the applicant had been to job worker for about ten times, who was processing the answer sheets and tried to find out serial number, subject and name of evaluator. Therefore, taking into consideration all these facts, it cannot be said that after lodging the report by the Chief Controller of Examinations, Dr. Kankale showed fingers to the applicant."

5. In the result, I make the following order.

ORDER

Criminal Application Nos.194/2015, 188/2015, 159/2015, 158/2015, 160/2015 and 136/2015 are rejected.

JUDGE

Wadkar

