

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

CRIMINAL APPLICATION NO. 3308 OF 2016

Sayyed Harun s/o Sayyed Rauf ...Applicant

VERSUS

The State of Maharashtra ...Respondent

.....
Shri S.G.Chapalgaonkar, advocate for applicant
Shri A.S.Shinde, A.P.P. for respondent
.....

CORAM : N.W.SAMBRE, J.

DATED : 28th JUNE, 2016

PER COURT :-

Heard.

2. The applicant is seeking pre-arrest bail in Crime No.59 of 2016, registered at Dharur police station, Dharur, District Beed, for the offences punishable under Section 420 of the Indian Penal Code.

3. The applicant claims to be working as Head Master of the school, namely Miliya Primary School, Dharur.

4. Upon inspection excess rice to the extent of 60 bags was found to be in possession of applicant resulting into a discrete inquiry and same has prompted the Chief Executive Officer of the Zilla Parishad to order registration of offence against the present applicant. Pursuant thereto, crime in question came to be registered.

5. While trying to make out a case for grant of bail, learned counsel for the applicant invited my attention to the existing dispute between the office bearers of the Society which is managing the school in question. According to him, before the Wakf Tribunal, Wakf Suit No. 82 of 2014 is pending and his political opponents have falsely implicated him in the crime in question. He would then invite my attention to the inspection report, dated 9.11.2015 so as to demonstrate number of students in the primary school, attached middle schools to the said Primary School and stock of rice. He would also rely upon the communication issued by the Center Head, Dharur to the Education

Officer (Primary) intimating that initially there were 60 bags of excess rice noticed. Subsequently said officer has made a somersault and has stated that it was an incorrect communication. According to him, from the affidavit filed in Writ Petition No. 135 of 2016, particularly the observations made in para 7, no offence is made out as against the present applicant. According to him, the application be granted and the applicant be ordered to be released on anticipatory bail.

6. The learned A.P.P. submits that there is enough material available on record to depict the involvement of the applicant in the crime in question. So as to substantiate his contention, he has invited my attention to the statement contained in the F.I.R., the number of students whose presence in the school was noticed on 22.1.2016 during inquiry wherein 250 Kgs. of excess rice was noticed, the statement of the witnesses who were examined wherein it is reflected that 60 bags of excess rice was noticed

and the other material as is collected during the investigation.

7. Having bestowed my thought to the submissions made, it is required to be noted that the F.I.R. is based on the inspection as was made by the Center Head on 6.11.2015 wherein 60 bags of excess rice were noticed. The said Center Head accordingly forwarded report to that effect and submitted that unaccounted rice was found in the possession of the applicant. The said officer for no good reasons made a somersault and retracted from his earlier statement. The Chief Executive Officer, based on the inquiry report addressed to the Block Development Officer asked to lodge F.I.R. in the matter by communication referred supra. The Block Development Officer and the Center Head have slept over the said issue and without complying with the orders of the Chief Executive Officer of the Zilla Parishad have delayed filing of the F.I.R. It is then required to be noted from the above conduct of the

subordinate officers of the Zilla Parishad that they were protecting the interest of the present applicant than complying with the orders of the seniors. This speaks about how the applicant can influence the investigation. The center head who earlier supported the applicant has in his statement during investigation has stated in support of prosecution case.

8. Apart from above, the statement of the witnesses, the inquiry report and the other material as is reflected in the investigation papers to which my attention is invited by the learned A.P.P. speaks about the prima facie involvement of the applicant in the crime in question.

9. In this background, in my opinion, no case for grant of pre-arrest bail is made out. Application stands rejected.

(N.W.SAMBRE, J.)

dbm/crap3308.16

