

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

CRIMINAL APPLICATION NO. 6162 OF 2015

Mrs. Shehnaaz w/o Badshah Patel,
Age: 44 years, Occ: Social Worker,
R/o. Beribaug, Harsul, Aurangabad.

...Applicant

versus

1. The State of Maharashtra,
The Police Inspector
Newasa Police Station,
Dist. Ahmednagar.

2. Mrs. Seema Uttamrao Gaikwad,
Age: 45 years, Occ: Social Work,
R/o. Mukundwadi, Thakrenagar,
Aurangabad.

3. Mr. Nitin Madhukar Mahajan,
Age: 46 years, Occ: Private Service,
R/o. Mukundwadi, Aurangabad.

...Respondents

.....
Mr. A.K. Bhosale, Advocate for applicant
Mr. S.D. Ghayal, A.P.P. for respondent No. 1
Mr. R.B. Ade, Advocate for respondent Nos. 2 and 3
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CORAM : N.W. SAMBRE, J.

DATE : 9th JUNE, 2016

ORAL ORDER :

The respondents-accused were granted pre-arrest bail under the provisions of Section 438 of the Code of Criminal Procedure in Criminal Misc. Application No. 170 of 2015 by learned Sessions Judge, Newasa vide order dated 08/10/2015 in Crime No. I-221 of 2015 for an offence punishable under Sections 406, 417,

418, 419, 410, 465, 466, 467, 468, 471 read with Section 34 of the Indian Penal Code.

2. Mr. Bhosale, learned Counsel for the applicant would strenuously urge that the Court must exercise the power under Section 439(2) of Code of Criminal Procedure for cancellation of bail as conduct of the respondent in the capacity of Secretary and thereafter does not entail her for grant of protection of pre-arrest bail. So as to substantiate his contention, he has invited attention of this Court to the allegation against respondents as regards financial misappropriation, mismanagement in the matter of appointment to the trust of employees. According to him, custodial interrogation, as such, of the respondents was necessary and on merit, grant of bail by learned Sessions Judge is not justifiable.

3. Learned A.P.P. supports the aforesaid contentions.

4. Learned Counsel for respondents-accused submits that the dispute as was preferred before competent authority under the Maharashtra Public Trusts Acts i.e. Assistant Charity Commissioner was already answered against the present applicant vide judgment dated 27/11/2015. He would then submit that the dispute is purely as regards differences between the group of trustees and has sought to

be given colour of criminal matter.

5. Having bestowed my thoughts to the submissions made, it is required to be noted that the matter was taken up before the competent authority under the Maharashtra Public Trusts Act at the behest of the present applicant. The said proceedings being Inquiry No. J-2/713/2009 initiated under Section 22 of the Maharashtra Public Trusts Act is already came to be answered against the presentt applicant, whereby the change report submitted by the applicant came to be rejected.

6. Apart from above, appropriate remedy is available to the applicant under the provisions of Bombay Public Trusts Act to get redress of the status of the present applicant, also that of respondents before the competent authority, if required for challenging the above referred order.

7. Apart from above, discretion as is exercised by learned Sessions Judge in favour of the respondents-accused, in my opinion, hardly warrants any interference, as no material illegality or arbitrariness could be demonstrated in the matter of grant of protection in favour of the respondents-accused, as there appears to be existence of dispute between the group of trustees.

8. In view of above, no case for cancellation of bail is made out. The application fails, stands rejected.

[N.W. SAMBRE, J.]