

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.421 OF 2016

Manish @ Mishrilal Rajaram Mundada ..Applicant

V/s.

The State of Maharashtra .. Respondent

Mr.H.V.Nimbalkar a/w Mr.Satyam Nimbalkar, Mr.Sachin Thombare,
for the applicant.

Ms.Veera Shinde, APP for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.,

DATE : 17th MARCH, 2016.

P.C.

1. Heard learned Counsel for the applicant and the learned A.P.P.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 58 of 2016 registered with the Wakad Police Station, Pune, for the alleged offences punishable under Sections 419, 420 of the Indian Penal Code and under Section 66(3), 43(b) r/w 66 of the Information Technology Act.

3. The complainant is one Biju Gopinathan Pille, who has lodged the aforesaid complaint/FIR as against 'Sai Balaji

Education Society' and its Founder, Director. The applicant is stated to be the Founder as well as the Director of 'Sai Balaji Education Society' since 2003. According to the complainant, some information was uploaded of 'Shri Balaji Society' on the website of 'Sai Balaji Education Society' showing the students, videos, infrastructure and photographs of 'Shri Balaji Society'.

4. Learned Counsel for the Applicant submits that the contract for uploading the information with regard to their Society i.e. 'Shri Balaji Society' was given on contract basis to one 'Anax Corporation of India' and that it was 'Anax Corporation of India' who had inadvertently uploaded the said information, on the website of 'Sai Balaji Education Society', from Google. He relied on an apology letter which is on page 34 of the application, written by 'Anax Corporation of India' to one Nishant Ranjan, HOD- IT, SBIIMS, Pune.

5. Learned APP states on instructions of the investigating officer who is present in Court, that the statement of an officer of 'Anax Corporation of India' has been recorded.

She submits that they have accepted the said mistake. She states that 'Anax Corporation of India' has accepted, that they had taken the said information from Google Search, pursuant to which the incorrect information was uploaded, inadvertently.

6. It appears, prima-facie, that the information on the website was inadvertently put up by 'Anax Corporation of India', to whom the contract was given by 'Sai Balaji Education Society'. The letter dated 8th February, 2016, which is on page 34 of the application reads thus :-

1. With reference to your e-mail dated on 7th Feb 2016 and meeting with you on 4th Feb, 2016 at our office, we have to state that we have already removed those contents which were not yours ;
2. Further we have to state that the contents were not provided by you. Those contents were collected from Google by your name search as "Sai Balaji Education Society" and thus few unwanted contents of other institute got accidentally incorporated as the name of other institute is so closely similar.
3. So, minutely that their difference could not be identified by the naked eye with normal level of observation therefore we

could not identified that these were unauthentic. We regret for this purely unintentional error which have found place.

7. Considering the aforesaid peculiar facts and circumstances of the case, the custody of the applicant is not required. Accordingly, the applicant is granted anticipatory bail on the following terms and conditions :

ORDER

(i) In the event of the arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount ;

(ii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any other persons concerned with the case.

8. Application is accordingly disposed of.

9. Parties to act on an authenticated copy of this order.

(REVATI MOHITE DERE, J.,)