IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

**ANTICIPATORY BAIL APPLICATION NO.1563 OF 2014
WITH
CRIMINAL APPLICATION NO.850 OF 2014
WITH
CRIMINAL APPLICATION NO.133 OF 2015**

Smita Dayanand Shinde ... Applicant
vs.
The State of Maharashtra ... Respondent

Mr. A.H.H. Ponda a/w. Ms. Manjula Biswas, for the Applicant.
Mr. S.K. Shinde a/w. Ms. S.V. Sonawande, APP for State.
Mr. A.P. Mundargi, senior Advocate for Respdt. No. 2 in APPP No.133 of 2015.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **31st MARCH, 2016**

P.C.:

. The application is moved for pre arrest bail as the applicant/accused is facing charges for the offences punishable under Sections 420 and 408 of the Indian Penal Code in C.R. No. 444 of 2014 registered with Borivali police station, Mumbai. The offence is registered at the instance of one Ibraham Aavle on 7th November, 2014.

2. It is the case of prosecution that the complainant is the President of one Nalanda Academy which runs Nalanda college at Gorai, Tal. Borivali, Mumbai. The father in law of the complainant is the Vice President of the said trust. The applicant/accused is working in Nalanda College as site engineer since 2000. She used to collect the amount of examination fee and admission fee from the accountant and treasurer of the college and used to deposit it in the bank account of the college. However, it is found that she has misappropriated the amount to the tune of Rs. 78,70,349/- for her personal gain and she has cheated the trust and committed breach of trust.

3. The learned counsel for the applicant/accused submits that applicant/accused is innocent. He submitted that the applicant/accused used to work on order of one Anuradha Dhobale w/o. Laxman Dhobale who used to take care of the administration of the trust. He submits that the applicant/accused has not deposited money in the bank account on instructions of Anuradha Dhobale. Thereafter, she was transferred to Solapur in July, 2014. The learned counsel further submitted that the applicant/accused previously

lodged a criminal case of rape in C.R. No. 359 of 2014 at Borivalil police station for the offence punishable under Sections 376, 323 and 506 of Indian Penal Code against Laxman Dhobale, one of the member of Nalanda Academy run by Shahu Shikshan Sanstha. This first information report was lodged on 12th September, 2014 by the applicant/accused. He submits that the present first information report lodged against the applicant/accused is of dated 7th November, 2014 and it is after thought. It is further submitted that said Laxman Dhobale is a Cabinet Minister and politically powerful person and his relatives have filed this false complaint against the applicant. It is submitted that the applicant/accused has not taken money and it can be ascertained. Nothing was deposited in her account. He submitted that the applicant/accused is nothing but a victim of the situation. She has granted interim pre arrest bail on 9th December, 2014 and she has been attending police station regularly.

4. The learned prosecutor and the learned senior counsel for the complainant relied on the statement of witnesses and the affidavit of D.S. Kamble (P.I.) attached to Borivali police station. She submitted that the statements of the employees who were working with the

applicant/accused are recorded who have stated that different amounts were handed over to the applicant/accused. However, she did not deposit the said amount in the bank account of the college. During the course of investigation, it was revealed that the applicant/accused has sold 2000 admission forms and collected nearly Rs. 7 lacs which is also not deposited in the bank account of the trust. She submitted that the case filed by the applicant/accused under Section 376 of Indian Penal Code is bogus and her custody is required to find out whether misappropriated money had gone.

5. Perused the first information report and the other relevant documents. It appears that the complaint of rape is filed prior to two months of the present complaint. The prosecution did not produce any document to show that the amount was deposited in the account of applicant/accused. The investigation of this offence is going on since 2014. The record discloses that there is enmity between Laxman Dhobale and the present applicant/accused and the family members of Laxman Dhobale. The major portion of the investigation depends on the documents and the statements of witnesses. Under such circumstances, I am of the view that the custody of the

applicant/accused is not required. Therefore, the interim pre arrest bail granted to the applicant/accused by an order dated 9th December, 2014 is hereby confirmed on the following terms and conditions:

(a) In the event of arrest, the applicant/accused be enlarged on bail upon furnishing P. R. Bond in the sum of Rs. 50,000/- with one or two solvent sureties in the like amount;

(b) The applicant shall not tamper with the evidence;

(c) The applicant shall cooperate with the Investigating Officer and shall attend Borivali police station, Mumbai once in a week on every Thursday between 11.00 am to 2.00 pm till filing of the charge-sheet or for one month whichever is earlier.

6. In view of the above, anticipatory bail application stands disposed of.

7. As per order passed by this Court on 16th July, 2015, the intervention application No. 850 of 2014 is heard along with criminal

application No. 133 of 2015. The applicant/accused has moved the intervention application for cancellation of anticipatory bail granted to Respondent Laxman Dhobale by order dated 13th May, 2015 passed in A.B.A. No. 1876 of 2014. I have perused the order dated 13th May, 2015 passed by the learned Additional Sessions Judge, Mumbai. The order is well reasoned. I do not find any illegality in the said order. Moreover, it is informed by the police that police have filed summery proceeding in this case. In view of the above, both the applications stands disposed of.

(MRS.MRIDULA BHATKAR, J.)