

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

CRIMINAL APPLICATION NO. 2671 OF 2017

Gangadhar Nathrao Mundhe,
Age 37 years, Occ. Lawyer, ... **Applicants**
R/o. Plot No. 18, Swapnasheel,
Aditya Nagar, Garkheda Parisar,
Aurangabad.

VERSUS

The State of Maharashtra ... **Respondent**
Through the Officer incharge of ...
Harsul Police Station,
Aurangabad.

Mr. B. R. Kedar , Advocate for the applicant
Mr. A. B. Girase, PP for the State.

WITH

CRIMINAL APPLICATION NO. 2827 OF 2017

Vijay Keshavrao Andhale,
Age 26 years, Occ. Service, ... **Applicant**
R/o.Zola(Pimpri) Tq. Gangakhed,
Dist. Parbhani

VERSUS

The State of Maharashtra ... **Respondent**
Through the Investigation
Officer, Police Station Harsul,
Aurangabad.

Mr. J. M. Murkute, Advocate for the applicant
Mr. A. B, Girase, PP for the State.

WITH

CRIMINAL APPLICATION NO. 2718 OF 2017

Santosh s/o Shivajirao Deshmukh
Age 32 years, Occ. Service, ... **Applicant**
R/o. Ward No. 15, Ram Nagar,
Chincholkar Layout, Buldhana,
at present N-5, CIDCO,
Aurangabad.

VERSUS

The State of Maharashtra. ... **Respondent**

Mr. N. S. Ghanekar, Advocate for the applicant
Mr. A. B, Girase, PP for the State.

CORAM : K. L. WADANE, J.

DATE : 21st June, 2017

ORDER:

1. The above mentioned bail applications are submitted by the Principal, Lecturer and President of a college namely Sai Institute of Engineering and Technology College under the provisions of Section 439 of the Code of Criminal Procedure.

2. On 17.5.2017, Rajendra Motiram Bangar, Police Sub Inspector, lodged a report to police station Aurangabad (City) alleging that on 17.5.2017 he received secret information and as per the information, he along with other police staff,

visited the house of Corporator- Sitaram Isaram Sure and found that in all 27 students were writing the answer-sheets of paper of Civil Engineering of the subject "Building Construction and Drawing". Four students were standing outside the house, two persons were helping the students to write the answer-sheets. On the basis of the report lodged by P.S.I. Rajendra Bangar, an offence bearing Crime No. 75/2017 came to be registered with Harsul Police Station, Aurangabad against the present applicants and other accused persons for the offences punishable under section 420, 107, 109, 114, 120B r.w. 34 of the Indian Penal Code and under section 3(2), 4(2), 5(2), 6 and 8 of the Maharashtra Prevention of Malpractices at University Board and Other Specified Examinations Act, 1982.

3. The police officer i.e. investigating officer along with other police personnel have raided the spot and found that the students were writing the answer-sheets, which they have kept blank and the Principal and Lecturer Vijay Andhale have facilitated them by supplying blank answer papers

from the custody of the Institution.

4. Heard Mr. N.S. Ghanekar, Mr. B.R. Kedar and Mr. J.M. Murkute, learned counsels for the applicants and Mr. A.B. Girase, learned Public Prosecutor for the respondent-State.

5. The bail applications of above applicants mainly opposed on the ground that the offences committed by the students with the assistance of these applicants is serious in nature. Learned PP submits that if students are doing such activities, what society can expect from them. Furthermore, by referring various documents, Mr. Girase, learned public prosecutor points out that the President of the Institution namely Gangadhar Mundhe and Vijay Andhale have active role in the commission of the crime by collecting certain amount from students. They have supplied blank answer-sheets. Therefore, they are not entitled for bail.

6. I have gone through the papers of investigation, particularly, the complaint and the seizure panchnama. From the same, it appears that,

Investigating Officer Mr. Jadhav conducted the panchnama and the articles detailed in the panchnama like answer-sheets, drawing sheets, cash amount, articles required for writing the answer-sheet, mobile hand set were seized by the investigating officer.

7. Learned advocates for the applicants submit that the offence levelled against the present applicants is punishable under section 420 of the Indian Penal Code, for which seven years imprisonment is provided and for the other offences under sections 3(2), 4(2), 5(2), 6 and 8 of the Maharashtra Prevention of Malpractices at University Board and Other Specified Examinations Act, 1982 punishment of imprisonment for one year and fine to the extent of Rs. 1000/- .

8. Investigation of the crime is over. Statements of witnesses are almost recorded. Incriminating articles found on the spot were already seized. In such circumstances, considering the nature of the offences and the allegations against each of the accused, I am of the opinion

that, no further detention of the applicants is needed for the purpose of investigation. Grievance of the prosecution is that, if the applicants-accused are released on bail, they will tamper with the prosecution evidence and will not cooperate the investigation. The grievance of the prosecution may be ventilated by imposing certain conditions upon the applicants. Therefore, applicants are entitled for bail. Hence following order:

O R D E R

- (1) The applicants shall be released on bail in connection with Crime No.75/2017, registered with Police Station, Harsul, Aurangabad, on their executing P.R. Bond of Rs. 25,000/- [Rs. Twenty five thousand only] each with one solvent surety in the like amount.
- (2) The applicants shall attend Police Station, Harsul, Aurangabad once in a week i.e. on every Sunday between 10.00 a.m. to 12.00 noon till filing of the charge-sheet.
- (3) The applicants shall not contact the

prosecution witnesses and shall not tamper
with the prosecution evidence in any manner
and to co-operate the investigation.

9. Criminal applications disposed of.

(K. L. WADANE, J.)