

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1851 OF 2017

Brijesh Kumar Singh & Anr. ... **Applicants**

V/s.

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

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Mr.Amogh Khadye I/b. Mr.Sachin Daga, Advocate for the Applicants.

Ms.P.P.Shinde, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 3rd NOVEMBER 2017.

P.C. :

1 Two applicants, who are husband and wife, by this application under Section 438 of the Code of Criminal Procedure in Crime No.I-279 of 2017 registered with Mahatma Phule Police Station, Thane for offence punishable under Section 420 read with Section 34 of the Indian Penal Code, are seeking pre-arrest bail.

2 Heard the learned Advocate appearing for applicants. It is argued that applicant No.2 Rajani Singh is running Educational Consultancy and First Informant Gulam Husain Mainuddin Majeed had contacted her for getting his son Arham admitted to the Degree Course in M.B.B.S. It is argued that an

amount of Rs.5,00,000/- was paid by the First Informant towards Educational Consultancy Fees to both applicants by RTGS and the balance amount of Rs.8,00,000/- was to be paid. The post-dated cheque for this amount was already handed over to the applicants by the First Informant. However, after securing admission in the M.B.B.S. Course, the First Informant attempted to evade his liability to pay the said amount. The cheque for Rs.8 lacs given by the First Informant towards educational consultancy fees bounced and under fear of prosecution for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, the first information report came to be lodged against both applicants. It is argued that both the applicants will cooperate the Investigator and there is no element of criminality in the transaction. It is further argued that seats remaining vacant after the first round of admission to the course of the M.B.B.S. are filled in by directing admission as per merit by the concerned Medical Colleges. It is argued for the applicants that son of the First Informant had secured 297 marks in the National Eligibility cum Entrance Test (hereinafter referred to as "NEET" for the sake of brevity) conducted by the Competent Authority and last admission at D.Y.Patil Medical College at Kolhapur was of a candidate securing 300 marks. It is further argued that though son of the First Informant had secured only 297 marks just because of their use of good offices by the Education Consultancy of the applicant No.2, he could get admission in D.Y.Patil Medical College, Kolhapur.

This, according to the learned advocate for the applicants, justifies the fees received and entitled to be received by both applicants and, therefore, both applicants are entitled for anticipatory bail.

3 The learned Additional Public Prosecutor opposed the application and submitted that the offence punishable under Section 420 of the Indian Penal Code is made out.

4 The present case depicts influence of unauthorized agents for admissions in M.B.B.S. Degree course, which are required to be done purely on the basis of merit. The Honourable Apex Court was required to monitor the admission process, as argued by the learned Additional Public Prosecutor, from the documents collected by the Investigator. It is seen even from the arguments advanced for the applicants that the merit can given go-bye if concerned person approaches the college by taking aid of agents. The argument advanced on behalf of the applicants shows that admission in the D.Y.Patil Medical College, Kolhapur closed on 300 marks but still son of the First Informant could get admission though he secured only 297 marks in the NEET examination. It appears that the present case is a tip of iceberg in the scam of medical admission, which appears to be hijacked by the agents. Less meritorious candidates, it seems, are admitted by the concerned Medical Colleges through agents operating in the field of medical admissions.

5 In this view of the matter, total and complete investigation of the crime in question is necessary as to ascertain how many agents are operating in the field by hijacking the admission process of the Degree course of M.B.B.S. by ignoring merits of the candidates aspiring for the admission for medical education on taking huge amount from them.

6 Be that as it may, the report lodged by the First informant shows that he had paid an amount of Rs.5,00,000/- to both the applicants as applicant Ranjana had allured him with assurance of giving admission to his son Arham for M.B.B.S. degree course. The FIR shows that option to take admission in several colleges was given by the applicants to the First Informant and that is how an amount of Rs.5,00,000/- came to be extracted from the First Informant. The admission to M.B.B.S. degree is regulated by the State by appointing Competent Authority and such admissions are required to be strictly according to the merits of the aspiring candidates reflected from their marks secured in the NEET examination. It is seen that the present applicants have manipulated the admission process.

7 Considering the nature and seriousness of offence and the fact that thorough investigation of the crime in question is required, custodial interrogation of both the applicants is must in the matter. That will secure interest of the society and faith of

common citizen in the admission process of M.B.B.S. degree course which is highly subjudice by the State by providing funds from the State Exchequer. Custodial interrogation of both the applicants is also necessary to bring on record their *modus operandi* as well as the role played by the Management of the Colleges in admitting less meritorious candidates.

8 The application is, therefore, rejected.

(A.M.BADAR J.)