

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (ABA) NO.595 OF 2017

Rajesh s/o Rambhau Dahegaonkar

..VS..

The State of Mah., thr. PSO, Ramnagar Police Station, District Chandrapur

AND

CRIMINAL APPLICATION (ABA) NO.598 OF 2017

Prashant Manohar Puranik

..VS..

The State of Mah., thr. PSO, Ramnagar Police Station, Chandrapur, Tahsil and
District Chandrapur

AND

CRIMINAL APPLICATION (ABA) NO.601 OF 2017

Subhash Ramesh Rajpurohit

..VS..

State of Mah., thr. PSO, Ramnagar Police Station, Chandrapur, Tahsil and
District Chandrapur

AND

CRIMINAL APPLICATION (ABA) NO.610 OF 2017

Ku. Sakshi Rajesh Dattatraya

..VS..

The State of Mah., thr. PSO, Ramnagar Police Station, Chandrapur, Tahsil and
District Chandrapur

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri ABA No.595/17

Shri S.P. Bhandarkar, Counsel for the applicant.

Shri J.Y. Ghurde, Addl.P.P. for the State.

ABA No.598/17

Shri U.P. Dable, Counsel for the applicant.

Shri J.Y. Ghurde, Addl.P.P. for the State.

ABA No.601/17

Shri M.P. Khajanchi, Counsel for the applicant.

Shri J.Y. Ghurde, Addl.P.P. for the State.

ABA No.610/17

Shri Amol Mardikar, Counsel for the applicant.

Shri J.Y. Ghurde, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : SEPTEMBER 4, 2017.

1. These four applications are under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail.

2. Since all these applications arise out of Crime No.1226 of 2017 registered with Ramnagar Police Station, District Chandrapur for the offences punishable under Sections 420, 467, 468, and 471 read with Section 34 of the Indian Penal Code and under Sections 4, 5, 6, and 7 of the Maharashtra Prevention of Malpractices at University, Board and other Specified Examinations Act, 1982, all these applications are decided by this common order.

3. Applicant in Criminal Application No.595 of 2017 is Rajesh Dahegaonkar. He is accused No.1. He is the

Principal of Dr. Ambedkar College of Arts, Commerce & Science, Chandrapur so also the centre incharge of the examination conducted by the Gondwana University, Gadchiroli for L.L.B. Examination in the said college. He is represented by learned counsel Shri S.P. Bhandarkar.

4. Applicant in Criminal Application No.598 of 2017 is Prashant Manohar Puranik. He is accused No.3. He is represented by learned counsel Shri U.P. Dable. This applicant was discharging his duties for the said examination at the centre as an external invigilator.

5. Applicant in Criminal Application No.601 of 2017 is Subhash Ramesh Rajpurohit. He is represented by learned counsel Shri M.P. Khajanchi. This applicant is the student. According to the prosecution, though he never appeared for the examination conducted by the University, he is shown in the record that he appeared for the examination.

6. So also, applicant in Criminal Application No.610 of 2017 Ku. Sakshi Rajesh Dattatraya is student who is represented by learned counsel Shri Amol Mardikar and also did not appear for the examination, as per the

prosecution case, but she is also shown in the record that she appeared for the examination.

7. All criminal applications for grant of pre-arrest bail are opposed by learned Additional Public Prosecutor Shri J.Y. Ghurde for the State. He has tendered separate reply opposing these applications. He has also produced before me the original record seized by the investigating officer.

8. The gist of submissions of learned counsel for the applicants is that custodial presence of the applicants is not at all required in view of the fact that the investigating officer has already seized all materials.

9. Learned counsel Shri M.P. Khajanchi also invited my attention to the reported decision of this Court in the case of Anwar Hussain Zeenat Ali Khan and another ..vs.. State of Maharashtra, reported at 2016 SCC OnLine Bom 3448 to buttress his submission that in view of the fact that when documents are already seized, custodial presence of the applicants is not necessary.

10. According to learned counsel Shri S.P. Bhandarkar, applicant Rajesh Dahegaonkar was centre

incharge and it was not his duty to visit each and every room. He is only controlling authority for the examination.

11. Learned counsel Shri S.P. Bhandarkar, has invited my attention at page No.21 of compilation of his application to point out that though the capacity of centre was of 700, the University has allowed 1150 examiners, students and, therefore, it was pointed out to University that if any malpractice or difficulties occurred, then for that the College will not be responsible. He has also invited my attention to page Nos.25 and 27 of the compilation to point out that he has already explained his position to the Enquiry Committee and, therefore, he submits that his case is fit for grant of anticipatory bail.

12. So also, are the submissions of learned counsel Shri U.P. Dable. He submits that there are no allegations against applicant Prashant Puranik in the first information report that he has conspired with anybody to give shape to the crime, in question. He also submits that the said applicant has attended the police station and has already extended full cooperation.

13. The criminal applications of the students, as

represented by learned counsel Shri M.P. Khajanchi and learned counsel Shri Amol Mardikar, are concerned, their submissions are that students in fact appeared in the examination and there are no allegations against any of them that they have tampered any official record. Both learned counsel also submit that as per the orders of this Court, the students have attended the investigating officer and have extended full cooperation.

14. The first information report is lodged by Jagannath Vithoba Dadve of Gondwana University, Gadchiroli on 4.8.2017 against the applicants and others. Before lodging of the first information report, as per the reply filed on behalf of the State, the University inquired in the matter by holding a detailed inquiry. The first inquiry was conducted under the Chairmanship of Dr. Arun Prakash which was consisting of Three-Member Committee whereas other inquiry was under the Chairmanship of Dr. Devidas Jagnade and was having Four-Member Committee.

15. As per the prosecution, these two independent Committees submitted their reports after the applicants were found to be guilty of committing various malpractices and also recommended action against the present

applicants.

16. True it is that as per the orders of this Court, all the applicants have attended the police station officer. When the entire records are seized, the Court should normally reluctant to grant custodial presence.

The case cited *supra* by learned counsel Shri M.P. Khajanchi shows that the offence was committed in respect of the document of the revenue authority and those were already seized.

The present case is having altogether different sheds. The University under the statute is required to hold examination in order to confer the degrees. The University is the creature of statute. The University has to discharge its duties as per the statute. One of the duties, that the University is obliged to function, is holding and conducting the examination of Bachelor of Law and Legislator. Accused Nos.5 to 7 are the students who were expected to appear in the said examination. For having a smooth conduction of the examination, it was the duty of accused No.1 Principal and centre incharge Rajesh Dahegaonkar so also accused No.3 Prashant Manohar Puranik who was

appointed as an external invigilator. It was expected from these two authorities on whom faith was shown by the University to conduct and hold examination in a free atmosphere. It was expected from them that only those students who attended the various dates of the examination are permitted to write the answer sheets for their evaluation at the appropriate stage by the competent persons.

17. In the present case, LLB Examination was to be conducted from 15.11.2016 to 2.12.2016. Page No.28 of the compilation of Criminal Application No.595 of 2017 which is a communication given by accused No.1 Rajesh to the President of the Disciplinary Committee, Gondwana University, Gadchiroli reads as under:

परीक्षा कालावधीमध्ये मी उपस्थित असतांना उपरोक्त संशयीत विद्यार्थ्यांच्या कंट्रोलशीट वर सही करतांना खोडतोड दिसून येत होती तेव्हा या बाबत सदर विद्यार्थी परीक्षेकरीता उशिरा येत असल्याचे परीक्षा सहकेन्द्र प्रमुख श्री. सतिश पेटकर यांनी सांगितले.

From the aforesaid, it is crystal clear that it was well within the knowledge of applicant accused No.1 Rajesh that there are tampering on the control sheets in

respect of accused Nos.5 to 7. In spite of that accused No.1, for the reasons best known to him, has turned a blind eye.

18. It can be argued that this is nothing but dereliction of the duty. However, looking to the role with accused No.1 Rajesh, it cannot be simple misconduct on his part. The Court cannot turn blind eye when responsible person like accused No.1 fails to discharge his duties. It cannot be simply said that it is a misconduct and he can be punished suitably in a departmental enquiry.

19. Learned Additional Public Prosecutor has pointed out to me the original control sheets. Perusal of the same clearly shows that there is tampering and white-ink is applied. Further, he has invited my attention to the statements recorded by the investigating officer of Kishor Nanaji Mahajan, Dr. Prakashdip Munjankar, Apeksha Walke, and Bandu Satre who were invigilators for the examination. They specifically denied in their statements that signatures which are attributed as the signatures of their are not in fact signed by them and however according to their statements, though the signatures of applicants students are appearing in record, they never appeared for the examination.

20. Further, he invited my attention in reply in which it is stated that even the students, who appeared for the examination, in their statements have stated that applicants in Criminal Application No.601 of 2017 and Criminal Application No.610 of 2017 never appeared for the examination.

21. The tampering with the examination is a very serious matter. In such cases, like the case in hand, the Court should not take a lenient view on the ground that the applicants have attended the police station or they are the students. Taking of lenient view will destroy the confidence of the student community in general in respect of the entire examination system. If the students like the applicants are permitted to go scott-free, it will have a bad impact on the genuine students who toil like anything for appearing in the examination. In order to instill the confidence in the entire examination, at this stage the Court will not come in the way of the investigating officer for conducting a detailed investigation since grant of anticipatory bail at this stage will scuttle the investigation which is at very primary stage.

22. In that view of the matter, all applications are rejected and interim orders are vacated.

The investigating officer is free to take necessary steps in accordance with law.

At this stage, learned counsel Shri S.P. Bhandarkar submits that in his case interim order may be continued for a period of further two weeks.

Looking to serious nature of accusations against the applicant, the said prayer is rejected.

JUDGE

!! BRW !!