

Anand

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

ANTICIPATORY BAIL APPLICATION NO. 1512 OF 2017

Deepa Sachin Sankhe & anr. .Applicants

Vs.

The State of Maharashtra .Respondent

Mr. V. Kurle a/w Mr. N. Ojha, Ms T. Kambli, Ms R. Patil, Ms M. Gamre, Ms R. Rana, Ms U. Khaire, Ms S. Doshi Ms S. Chauhan, Ms P. Gawali i/b. Mr. Shivjai Kunchge, Advocate, for the Applicants
Mr. H. J. Dedhia, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 23.02.2018

P.C.

. This matter has been placed before me pursuant to the 'Not Before Me' order passed by Hon'ble Shri Justice A. S. Gadkari.

2. Heard learned counsel for the parties.

3. By this Application, the Applicants seek pre-arrest bail in connection with C. R. No. 247 of 2017 registered with the MHB Police Station, Borivali for the alleged offences punishable under Sections 420, 465, 468, 471, 120B r/w 34 of the Indian Penal Code.

4. Learned counsel for the Applicants submitted that the Applicants have been falsely implicated in the said case. He submitted that the statement of the first informant and the prosecution case set out in the Affidavit as well as other documents, if taken into consideration contradict each other. He submitted that although the Complainant has alleged that they were not allowed to appear for the 4th Semester, as the hostel fees were not paid, the letter at page 36 of the Application shows that there was '0' attendance and hence, there is a contradiction in the same. He submitted that if the representation made by some of the students to the Police Inspector, Nevasa Police Station is seen, it is evident that the said allegations were against Trimurti B. Ed. College, Ahmednagar, Nevasa, as the original papers i. e. their mark sheets etc. were retained by the said college and as such the students were seeking return of the said documents. He further submitted that the Applicant No. 1 is the Founder and Chairman of 'Deep Education Society' and that it is at the behest of Trimurti B. Ed. College, that false allegations are made by students against the Applicants, with the sole intent to defame the Applicants and to extort money from them. He further submitted that there was no question of the Applicants misrepresenting any of the students, inasmuch, as the Applicants were conducting a Career and Counseling Centre in the premises of Sailee college and not a B. Ed.

College. He further submitted that the students had completed their first 3 Semesters and the issue was only with respect to the 4th Semester. He submitted that under these circumstances, the Applicants are entitled for pre-arrest bail. Learned counsel for the Applicants relied on the Judgments of the Apex Court and Calcutta High Court in the case of ***G. Sagar Suri and another Vs. State of U. P. and others***, reported in ***AIR 2000 SUPREME COURT 754*** and ***Sharmistha Chowdhury and Ors. Vs. State of West Bengal and Ors.***, reported in ***C. R. R's. 602 and 1341 of 2017 decided on 27.07.2017*** respectively.

5. Learned APP opposes the Application. He submitted that there is overwhelming material on record to show that the Applicants had cheated about 89 students and had extracted money from them i. e. Rs. 1 lakh odd from each of the students, after representing that they were running 'Modern Education Society (Sailee B. Ed. College)', despite the fact, that there is no such Society's B. Ed. College in existence. He submitted that Sailee B. Ed. College had no permission to run the B. Ed. College. He further submitted that by misrepresenting the students, the Applicants had induced them to part with money and thereafter, taken their admission in Trimurti Women's B. Ed. College, Trimurtinagar, Nevasa, District – Ahmednagar. He submitted that the

Modern Education Society had not given any permission to the Applicants to run Sailee B. Ed. College. Learned APP relied on the statements of various students, who had taken admission in Sailee B. Ed. College, on the basis of the misrepresentation made by the Applicants. He also relied on the statements of Mr. Ashirwad Jaywant Lokhande, the Principal of Sailee College, who has stated that one room was given to the Applicant No. 2 to only run a Career and Counseling Centre and not a B. Ed. College. He also relied on the statement of Mr. Sahebrao Haribhau Ghadge-Patil, Chairman of Trimurti B. Ed. College, Ahmednagar to show the representations made by the Applicant No. 1 to get the students admitted in the said college.

6. Perused the papers. According to the Complainant – Nehal Vinod Boradia, she had seen the board of B. Ed Degree Course on the 5th floor of Sailee B. Ed. College and hence, went to enquire about the same. She has stated that on going to the 5th floor, she received information that it was Bhagesh Sankhe's (Applicant No. 2's) office and that he was running a B. Ed. Degree Course. She has stated that pursuant thereto, she met the Applicant No. 2 – Bhagesh Sankhe, who told her that she can take admission for B. Ed. Course and that the cost of the B. Ed. Course which was of two years (4 Semesters) was around

1,05,000/-. She has stated that she decided to take admission and paid a sum of Rs. 50,000/- and subsequently, various amounts. She has further stated that she had tendered her mark sheets of 10th Std., 12th Std., passing Certificate, Leaving Certificate with the Applicants' office. She has stated that pursuant thereto, classes were being conducted in the office, situated on the 5th floor and that there were about 89 students including her and that the Applicant No. 2 - Bhagesh Sankhe was conducting B. Ed. classes. She has further stated that she had taken admission for the B. Ed. Course with the Applicant No. 2's institute, but was required to give examination at the Trimurti Women's B. Ed. College, Trimurtinagar, Nevasa, District – Ahmednagar and it is then, that she realized that the Applicant No. 2 - Bhagesh Sankhe had enrolled them not in Sailee B. Ed. College, but in Trimurti Women's B. Ed. College. She has further stated that she was later told that she was required to pay in addition, hostel fees of Trimurti Women's B. Ed. College or would not be allowed to appear for the examination. She has stated that pursuant to the same, she informed the Applicant No. 2 - Bhagesh Sankhe who disclosed to her that the admission was done in Trimurti Women's B. Ed. College and that she would be required to pay the hostel fees. She has further stated that the Applicant No. 2 - Bhagesh Sankhe when questioned, started giving evasive replies and

when she asked for return of money, he refused to return the same. According to the Complainant, the Applicants had cheated her by telling her that she was being admitted in Sailee B. Ed. College, pursuant to which she took admission, only to learn that the admission was done in Trimurti Women's B. Ed. College. Pursuant to the said complaint lodged by the Complainant, the MHB Police Station lodged the aforesaid offences as against the Applicants. During investigation, the prosecution recorded the statements of several other students, who also disclosed the same, as disclosed by the Complainant. A perusal of the admission form of the Complainant and others shows that on the left hand side of the said form, it is written (typed) 'Modern Education Society, Sailee B. Ed. College'. It appears that there was no such Sailee B. Ed. College in existence. The statement of the Principal of Sailee College, Mr. Ashok Lokhande shows that the Applicant No. 2 had represented to him, that he would run a Career and Counseling Centre. The statement of Mr. Sahebrao Haribhau Ghadge-Patil, Chairman of Trimurti B. Ed. College also shows the representation made by the Applicant No. 1 to him. The Applicant No. 1 is stated to have disclosed to him that the students could not afford actual fees, and hence, sought for reduction of the amounts, which was reduced by him, on the representation made by the Applicant No. 1 for the 1st year & the 2nd year. It appears that the

students had no alternative but to appear for the examination at Trimurti College, though having paid money / fees for Sailee B. Ed. College, Mumbai, as they would loose not only money but also an academic year. It appears, that the students were not allowed to appear for the 4th Semester because of '0' attendance as is reflected in the letter sent by the Principal whereas, according to the students, they were also not allowed to appear because they had failed to pay hostel fees of Trimurti B. Ed. College. The fact remains, that the Applicants had represented that there was a Sailee B. Ed. College in existence, pursuant to which several students (almost 89 students) took admission, only to later learn that they would be required to appear in Trimurti B. Ed. College and that, in reality there was no such Sailee B. Ed. College in existence. Each of the students had paid more than Rs. 1,00,000/- for the said admission. The conduct of the Applicants shows that they misrepresented to the students and as such had induced them to take admission. There is clear intent to cheat the students. Hence, custodial interrogation of the Applicants is necessary.

7. Considering the evidence on record, this is not a fit case to grant pre-arrest bail to the Applicants.

8. Accordingly, the Application stands rejected.

9. If an Application for regular bail is filed, the learned Judge shall consider the same on its own merits uninfluenced by the observations made in this Application.

(REVATI MOHITE DERE, J.)