

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Criminal Application (ABA) No.482/2018
(Tejbahadur Shrawan Tidke .vs. State of Maharashtra through PSO PS
Hingna, Tah. And Dist. Nagpur.)
with
Criminal Application (ABA) No.501/2018
(Vijay Bhimraoji Bele .vs. State of Maharashtra through PSO PS Hingna, Tah.
And Dist. Nagpur.)
with
Criminal Application (ABA) No.502/2018
(Pundlik Nathuji Raghute .vs. State of Maharashtra through PSO PS Hingna,
Tah. And Dist. Nagpur.)
with
Criminal Application (ABA) No.503/2018
(Ramdas Karuji Nandeshwar .vs. State of Maharashtra through PSO PS
Hingna, Tah. And Dist. Nagpur.)
with
Criminal Application (ABA) No.504/2018
(Vasant Yaduji Bhiogade .vs. State of Maharashtra through PSO PS Hingna,
Tah. And Dist. Nagpur.)
with
Criminal Application (ABA) No.505/2018
(Shrikrushna Ramdas Mate .vs. State of Maharashtra through PSO PS
Hingna, Tah. And Dist. Nagpur.)
with
Criminal Application (ABA) No.510/2018
(Nilesh Jaiwant Rathod .vs. State of Maharashtra through PSO PS Hingna,
Tah. And Dist. Nagpur.)
with
Criminal Application (ABA) No.511/2018
(Rajesh Bhanudas Meshram .vs. State of Maharashtra through PSO PS
Hingna, Tah. And Dist. Nagpur.)
with
Criminal Application (ABA) No.545/2018
(Amol Vasantrao Panchbudhe .vs. State of Maharashtra through PSO PS
Hingna, Tah. And Dist. Nagpur.)
with
Criminal Application (ABA) No.548/2018
(Damodhar Ramdasji Hargude .vs. State of Maharashtra through PSO PS
Hingna, Tah. And Dist. Nagpur.)

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

Court's or Judge's orders.

Mr. A.S. Mardikar, Senior Advocate with Mr. S.G. Joshi, Advocate for
Applicant in ABA 482/2018
Mr. V.D. Muley, Advocate for Applicants in ABA Nos. 501/18, 502/18,

503/18 and 504/18

Mr. S.S. Joshi, Advocate for Applicant in ABA No. 505/18.

Mr. P.K.Mishra, Advocate for Applicants in ABA No.510/18 & 511/18

Mr. S.A. Chaudhari, Advocate for Applicant in ABA No.545/18.

Mr. O.K. Masurke, Advocate for Applicant in ABA No. 548/18.

Mr. N.B. Jawade, APP for Non-applicant/State.

CORAM : NITIN W. SAMBRE, J.

DATED : SEPTEMBER 05, 2018.

The applicant in Criminal Application 501 of 2018 who is retired as Junior Education Extension Officer, Department of Tribal Development, claimed to have carried out visit to the Ashram School on 04.10.2012. Applicant in Criminal Application No. 502 of 2018 who is retired as Assistant Project Officer, carried out visit on 05.12.2012. Applicant in Criminal Application No.482 of 2018 working as Planning Officer in the office of Collector Gadchiroli has visited the Ashram School on 23.01.2013. Applicant in Criminal Application No. 511 of 2018, working as Junior Extension Officer visited Ashram School on 04.12.2013. Applicant in Criminal Application No. 510 of 2018 working as Junior Clerk visited Ashram School on 09.12.2013. Applicant in Criminal Application No.503 of 2018 working as Inspector, Tribal Development Department carried out visit on 21.01.2016 and applicant Hariram Madavi, Additional Commissioner, Tribal Development Department has sanctioned the bills. The applicant in Criminal Application No. 504 of 2018, working as Junior Extension Officer visited Ashram School on 21.01.2015. Applicant in Criminal Application No. 505 of 2018 is Secretary of the Gram Uddhar Vidya Shikshan Sanstha, which is running Ahilyadevi Holkar Aided Ashram School.

Applicant in Criminal Application No. 545 of 2018 is Head Master of the Secondary Ashram School and applicant in Criminal Application No. 548 of 2018 is Head Master of the Primary Ashram School.

2. In the academic year 2012-2013 applicant Vijay Bhimrao Bele who is accused no.5, has visited Ahilyadevi Holkar Aided Ashram School run and administered by Gram Uddhar Vidya Shikshan Sanstha of which accused Shrikrushna Mate is Secretary and has certified that there were in all 478 students in the hostel and 479 in the school. It is alleged by the prosecution that the class-wise attendance, if verified, it was noticed that in Classes 1st to 12th, there were in all 304 students who were present whereas applicant has certified presence of 473 students in the visit register. As such the strength of the students was shown to have been in excess of 169 if compared with that of attendance register maintained by the Class Teacher. It is the case of the prosecution that the Anti Corruption Bureau received a complaint in regard to the conduct of the Ashram School of drawing more grant-in-aid than that of legally admissible and as such open enquiry in the matter was conducted pursuant to the directions of the Director General of Anti Corruption Bureau. The said enquiry was conducted for the period starting from September 30, 2010 to June 20, 2016 and having noticed that public servants who have visited the Ashram School have shown more number of students than who were actually present, for fraudulently drawing grants, the details of which are as under:-

Name of Officer who visited the Hostel/School	Class-wise attendance in the hostel	Actual class-wise attendance in the school	Attendance shown by the Visiting Officer in the Visit Register	The difference between the entry taken in the visit register by the Visiting Officer and the actual attendance in the school
Vijay Bhimrao Bele	478	304	473	169
Pundlik Natthuji Raghute	478	144	473	329
Tejbahaddur Shrawan Tidke	478	341	475	134
Dilip Sahadeo Nhivekar	627	618	617	1
Rajesh Bhaudas Meshram	549	367	512	145
Nilesh Jaiwant Rathod	549	376	502	126
Vasant Yaduji Bhiogade	547	506	516	10
Hariram Manuji Madavi	501	247	478	231
Ramdas Karuji Nandeshwar	501	372	477	105

3. In the aforesaid backdrop, the learned counsel for the applicants while trying to make out a case for grant of bail would urge that this Court has already ordered release of the similarly placed accused viz. Dilip Nhivekar, who was working as Accounts Officer and who was ordered to be released on pre-arrest bail by this Court on 26.07.2018. It is further claimed by all the accused persons that the circulars and the instructions provide that grant-in-aid is required to be paid on the basis of the presence of the resident students in the Ashram School and not the one who are present in the school. According to them, as such the prosecution case that the number of students present in the Class were less and the inflated number of students shown in the visit report, was with an ulterior motive, does not appear to be correct. It is also alleged that the offence claimed

against the applicants is based on stale facts. The entire offence alleged is based on documentary evidence and the prosecution has already taken custody of the documents and other documents which are not available, the applicants are ready and willing to supply if the list thereof is provided. As such there is no need of custodial interrogation.

4. Per contra, Mr. N.B. Jawade, learned Additional Public Prosecutor, would urge that the case of the co-accused D.S. Nhivekar, who is released on pre-arrest bail by this Court, cannot be termed at par with that of the applicants. It is further claimed that custodial interrogation of each of the applicants is necessary, so as to find the mode and manner in which the offence is committed. It is also urged that prima facie involvement of the applicants can be inferred upon comparing the number of students present in the class which were shown to be inflated in the bills which are submitted for claiming grants. It is also alleged that all the accused have acted in connivance with each other and have practised fraud on Government exchequer for drawing illegal grants. As such, custodial interrogation is necessary.

5. Considered rival submissions.

6. The extract of the manual which deals with the grant-in-aid to be released provides that the said grant can be released to the Primary and Secondary Schools in a year at the rate prescribed. It also

prescribed that the officials from the Department will carry out the number of visits and average be drawn on the basis of the resident students present who were certified to be present in the school/hostel for the purposes of calculating the grants. Accordingly, it appears that each of the applicants/officials during their visit have certified the number of students present in the hostel and that of from the record maintained by the Management. It is claimed by the prosecution that upon verification with the class attendance register maintained by the staff, the number of resident students who are certified to be present in the school were shown to be on higher side so as to claim additional illegal grants.

7. No doubt, the prosecution for the purposes of opposing bail and roping in the applicants in the crime in question, has relied on clause 2.43 of the manual which deals with the release of grant which speaks of entitlement for grant against each student residing in the hostel. The grants are required to be released against resident students and for that purpose, in my opinion, the claim put forth by the prosecution that the number of students present in the class are required to be appreciated, appears to be contrary to the instruction in the manual.

8. Apart from above, the investigation speaks of the offence based on the documentary evidence and it is informed that most of the original documents are already taken by the prosecution agency from the applicants as

also from the society. The applicants have assured to part with the original record as will be summoned and directed by the investigating officer.

9. Apart from above, the fact remains that the similarly placed accused D.S. Nhivekar, who is ordered to be released by this Court on 26.07.2018 is enjoying bail on the similar set of facts, which order is not objected to or questioned by the non-applicant-State.

10. As such all these applications are allowed.

(i) In the event of the arrest of the applicants in Crime No. 125 of 2018 registered with the non-applicant for offences punishable under Section 13(1)(k)(5) read with 13(2) of Prevention of Corruption Act, 1988 and Sections 420, 468, 471 read with 34 of the Indian Penal Code, the applicants be released on furnishing personal bond of Rs.25,000/- with one or two solvent sureties in the like amount by each of the applicants.

(ii) The applicants shall attend the investigating officer initially for a period of four weeks on every third day with effect from 09.09.2018 to be more precise on 12th, 15th, 18th, 21st, 24th, 27th and 29th September, 2018 in between 10 a.m. and 12 noon and thereafter as and when directed by the investigating officer.

(iii) The applicants shall not tamper with the prosecution evidence nor shall attempt to influence the prosecution witnesses in any manner.

(iv) If the applicants fail to produce the original documents in their custody or to cooperate with the investigating agency, the investigating officer will be at

liberty to move for cancellation/modification of the order.

11. With the above observations, the applications stand allowed.

JUDGE

Rajendra
Gajananrao
Halwai

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