

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

ANTICIPATORY BAIL APPLN. NO. 146 OF 2019

Chandrakant Shaligram Patil	... Applicant
Vs.	
The State of Maharashtra	... Respondent

**WITH
ANTICIPATORY BAIL APPLN. NO. 561 OF 2018**

Pramod Bhaskar Kahu	... Applicant
V/s.	
The State of Maharashtra	... Respondent

**WITH
ANTICIPATORY BAIL APPLN. NO. 604 OF 2018**

Ramesh Dattatray Pawar	... Applicant
V/s.	
The State of Maharashtra	... Respondent

**WITH
ANTICIPATORY BAIL APPLN. NO. 809 OF 2018**

Bhoma A. Sonavane and Ors	... Applicant
V/s.	
The State of Maharashtra	... Respondent

**WITH
ANTICIPATORY BAIL APPLN. NO. 810 OF 2018**

Deepak G. Shimpi And Ors	... Applicant
V/s.	
The State of Maharashtra	... Respondent

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Mr. Manoj S. Mohite i/b Mr. Raviraj Paramane for the Applicant in ABA/146/2019.

Mr. S. V. Marwadi i/b Mrs. Trupti Khamkar for the Applicant in ABA/561/2018.

Mr. Sandesh Patil i/b Mr. P. S. Gole for the Applicant in ABA/604/2018.

Mr. Niranjan S. Mundargi i/b Mr. Harshad Sathe and Mr. Saurabh Butala for the Applicant in ABA/809/2018 & ABA/810/2018.

Mrs. A.A. Takalkar, APP for the Respondent-State in all matters.

Mr. Vinay More, PI, EOW, Palghar.

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CORAM : PRAKASH D. NAIK, J.

DATE : 6th March, 2019

P.C.

1. The applicants in all these applications under Section 438 of Code of Criminal Procedure are seeking Anticipatory Bail, apprehending arrest in connection with CR No. I-48 of 2018 registered with Palghar Police Station for offences punishable under Sections 420, 465, 467, 468, 471, 472, 473, 474, 120-B, 511 and 34 IPC. The first Information Report was registered on 27th February, 2018 at the instances of Additional Chief Executive Officer, Zilla Parishad, Palghar.

2. The prosecution case is that the complainant is authorized by the Chief Executive Officer, Zilla Parishad to register FIR in respect of appointment of Peons under the scheme of Central Handicap Integrated Education Programme by submitting illegal and forged appointment letters. In December, 2017, the complaint was forwarded by one Mr. Vijay Kharpade to the Chief Minister and other Ministers and raised concern over illegal appointment of 80 Peons in the services of Zilla Parishad and requested to take appropriate legal action. In the meeting of Standing Committee of Zilla Parishad held on 19th December, 2017 and the meeting of General body held on 20th December, 2017, the aforesaid issue was discussed and the CEO, Zilla Parishad was called upon to take a strict action in respect of the same and to give priority to local candidates. Five members committee was constituted under the Head of Deputy CEO. The said Committee submitted its report. The CEO, Zilla Parishad forwarded letters to the Rural Development Ministry, to confirm appointment of said 80 candidates. The Deputy Secretary, Rural Development Department visited the Zilla Parishad on 25th January, 2018. As per the report, the letters received by the Zilla Parishad from the Rural Development Department regarding appointment of

Peons/Teachers were false and fabricated. The Zilla Parishad received forged letters, which are referred to in the First Information Report. The said documents indicated that the Peons has been accommodated in the services of the Zilla Parishad. 80 persons were appointed with Zilla Parishad. 72 candidates joined services in various departments and their salary was deposited in their bank accounts for the month of November, 2017 and December, 2017. Subsequently, after learning about the fraudulent acts, the salary of the candidates were stopped and they were suspended from the services on 7th February, 2018. It is alleged that Zilla Parishad received letters from Mantralaya through post or through officer of Zilla Parishad. In the event, such letter is received the inward Clerk enters the inward number and put stamp on the same and place the same before the Junior Administrative Officer. The letter was brought to the notice of the Deputy C.E.O. through Junior Administrative Officer. Smt. Geeta Jadhav, who is working as inward Clerk in General Administration, Mr. Ramesh Pawar is working as a Senior Assistant and Mr. Pramod Kahu was working as a Junior Administrative Officer till 5th February, 2018. In appointment procedure of 80 candidates, it was seen that the regular procedure

was not followed. Most of the letters were not entered in inward register, inputs were forwarded in accordance with Government Resolution dated 15th September, 2010. Recommendations were forwarded and signed by the CEO of Zilla Parishad. The letters were false and fabricated.

3. After registration of First Information Report, investigations proceeded. The applicants apprehended arrest and preferred Anticipatory Bail application before the Sessions Court, which were rejected. Hence, these applicants preferred application for Anticipatory Bail, before this Court.

4. Learned Advocate, Mr. Marwadi appearing for the applicant in ABA No. 561 of 2018, submitted that the applicant has been falsely implicated in this case. The applicant has co-operated with the investigation. The entire case relates to the documents, which are already in custody of the police. Custodial interrogation of the applicant is not necessary. The applicant is being made scapegoat. The persons who are concerned in commission of crime are exonerated. The applicant is not involved in forgery of any documents. The applicant had placed reliance on several

documents, which are annexed to application. Learned Counsel also tendered several documents in support of his submission. It is submitted that the witnesses were pressurized to implicate applicant. It is further submitted that the applicant was working as Executive Officer in Zilla Parishad, and subsequently, he was appointed on the post of office Superintendent. He was assisted by other staff. He was working under Chief Executive Officer and Deputy Chief Executive Officer as well as Additional C.E.O. The documents are always accepted by the concerned desk Clerk and forwarded to the Deputy C.E.O., who had marked the same to the applicant and thereafter the entry was being made in the register. Pursuant to the directions issued by the Government of Maharashtra, Zilla Parishad office under the guidance of C.E.O. made a note for employment of the said persons. The list was approved by C.E.O. Letter was issued by C.E.O. to depute Director on 15.07.2017, informing them that there is possibility of employing the persons as and when posts remains vacant. It is submitted that Zilla Parishad received letters from Mantralaya on 30th July, 2017 and 31st July, 2017. Letter dated 27th November, 2017 was also received given the list of 80 candidates, who were duly appointed as Peons at different places. On the basis of papers

in the file, the applicant made noting “to be examined by his superior”, and, accordingly, filed a recommendation letter and the letters of the candidates were prepared mentioning therein to report various offices, within the jurisdiction of Zilla Parishad. The candidates were given intimation to join their respective offices under the signature of CEO. There is no evidence to show that the applicant is concerned with fabrication of documents. He has been falsely implicated at the instances of superiors, who were involved in the crime. The letter which was received from Mantralaya was admitted by Geeta Jadhav on 21st February, 2018. Subsequently she made a false statement. The applicant is not concerned with preparing and using the said letter or making an appointment letter. The applicant was holding three posts simultaneously. The responsibility of applicant was not to receive the letter and it is only after it is given to him by the Desk Officer for signature the same was received by the applicant. The applicant had no reason to doubt the genuineness of the documents. Candidates were not chosen and interviewed. The employees were appointed as per the Government Resolution. The applicant had co-operated with the inquiries and investigation. The role of the applicant was only to forward documents to the Deputy C.E.O., which was submitted by

Accused No. 1. Deputy C.E.O. and C.E.O. have approved and signed the appointment order. The posting was given by Additional C.E.O. vide his letter dated 19th January, 2018. The documents were forwarded to Additional CEO (Complainant) and its acknowledgment was received. Hence, question of pressurizing Geeta Jadhav on 25.01.2018, does not arise.

5. Learned Advocate Mr. Patil appearing for the applicant in ABA No. 604 of 2018, restricted and adopted the argument advanced by the Advocate appearing in aforesaid application. It is further submitted that the custody of applicant is not required. He has co-operated with the investigation. He is a public servant. The alleged letters are received by inward department and they get signatures of the Junior Clerk as well as Deputy C.E.O. and the CEO. However, the applicant is being falsely implicated as an accused. The persons who are involved in the crime are made witnesses and reliance is placed on statements of such persons. The matter relates to documents for which custodial interrogation is not necessary. The prosecution has not established any connection of the applicant with forgery of documents.

6. Learned Advocate Mr. Mohite for the applicant in ABA of 146 of 2019 submitted that applicant is not connected with the entire controversy. He has no access to any documents, which were allegedly forged. He is not linked to office of Zilla Parishad. There is no evidence to connect him with the crime. He is social worker . He is president of Social Organization namely Shri Satya Sai Seva Sanskrutik Samajik Shaishanik Mandal, Jalgon, Jogai Mata Sanskrutik Samajik Shaishanik Mandal, Dhule, which runs schools for tribal children. The applicant was informed by Sakharam Mote, that there is recruitment drive in the Palghar, Zilla Parishad and he has good contact with officials of Zilla Parishad. The said person offered job to relatives of applicant, subject to payment of certain amount. The applicant, thus, requested Shri Mote to look job for his nephew and Shri Mote was confident about his assurances, hence certain other references were given. The applicant is not concerned with fabrication of documents. He had never visited office of Zilla Parishad. The entire case relates to the documents. Shri Sakharam Mote was arrested and he has been granted bail by Court at Palghar by order dated 13th February, 2019.

7. Learned Advocate for the applicants in ABA Nos. 809 and 810 of 2018 submitted that the applicants are victims of circumstances. They had no connection with the office of Zilla Parishad or its officers who are allegedly involved in the crime. They are not concerned with preparation of any fabricated documents. They are not part of the conspiracy. They were appointed peons in service of Zilla Parishad. The applicants were in search of job and all of them are in the age group of 20 to 30 years. The appointment letters issued to the applicants were genuine and same were issued by the Zilla Parishad. They had no knowledge about the fabrication of the documents. 20 candidates were appointed vide the letter dated 11.10.2017. They were directed to join services on or before 27.10.2018. However, the State Government has issued letter on 13.10.2017 directing not to appoint any person as Peon or teacher, however, the candidates were appointed and allowed to join services. The applicants had no access to the documents, Governments resolutions, correspondences etc. 26 candidates were appointed by C.E.O. vide letter dated 29.11.2017 and 34 candidates were appointed vide letter dated 11.12.2017. It is submitted that the applicants were not concerned with the irregularities in the office of Zilla Parishad.

They were initially working as teachers in schools of the various Zilla Parishad under the Handicap Integrated Education Programme. The scheme was closed by the State Government, and, subsequently, it was directed to appoint 595 persons on the post of teachers/peons. The applicant came to know about the fraud mentioned in the FIR only when they were suspended. They were appointed in pursuant to appointment letter issued by C.E.O. of Zilla Parishad. Custodial interrogation of the applicants is not necessary.

8. Learned APP submitted that the offence is of serious nature. The custodial interrogation of applicants is necessary. The accused were involved in fabrication of documents. The investigation reveals the involvement of applicants in the crime. The Statement of the witnesses clearly shows the involvement of applicants. The process of recruitment was completely hurriedly. Government Resolutions on the basis of the recruitment was conducted are fake. Government Resolution was not issued by the Rural Development Ministry. There was no communication between Zilla Parishad, Palghar and Rural Development Ministry regarding the list of candidates under scheme of 'Adjustment'. The names of

peons are mentioned without mentioning their age and addresses. Without making any inquiry joining report were issued. Some of the employees were minor on the date of preparing 'Adjustment' list i.e. on March, 2009. The applicants in ABA No. 561 of 2018 and 604 of 2018 did not make any requisite inquiry. On 22.12.2017, Zilla Parishad had issued letter to Rural Development Ministry for verification and confirmation whether list of 80 persons was forwarded by Ministry to Zilla Parishad, Palghar. The said letter did not reach Rural Development Ministry. The applicant in ABA No. 604 of 2018 stated that on 6th January 2018, he received a letter from Rural Development Ministry on his Whatsap. In the said letter the said Ministry confirmed the fact that list of 80 persons was issued by the Ministry. Subsequently, it was revealed that no such letter was received in the office of Rural Development Ministry and confirmation letter was also not issued by the said Ministry. The statement of Amit Pitale and Geeta Jadhav reflects the involvement of the applicants in ABA No. 561 of 2018 and 604 of 2018. There is sufficient evidence against the applicant in ABA 146 of 2019. The statements of various witnesses were recorded. It is disclosed that he has accepted the amount for appointment of candidates. The contention of the said applicant

that he was only concerned with his nephew and has made some recommendations is devoid of merits. The circumstances indicate that applicants in ABA No. 809 of 2018 and 810 of 2018 had knowledge about the irregularities and considering the appointment letters issued to them and the contents of the same show that they had complicity in the crime.

9. I have perused the documents in all these applications. The prosecution has filed affidavit opposing the application. Learned APP also pointed out the investigation papers in support of his submission. Affidavit filed by the prosecution gives details about the fraud committed by the accused. It is apparent that as per Government Resolution dated 31.08.2009 and 15.09.2010, the scheme of Integrated Education for Disabled Children was stopped. The Government took decision to reappoint the teachers and the peons from the closed units. Thus, teachers and Peons could be reappointed in the primary schools of the local bodies like Zilla Parishad, Nagar Palika, Mahanagar Palika etc. About 595 units were closed. The noting was put up by accused Ramesh Pawar (applicant in ABA No. 604 of 2018), as he was working in department of Zilla Parishad, Palghar. The note was approved and

sent for Higher approval to Shri Pramod Kahu (applicant in ABA No. 561 of 2018) working in the same department. The noting was further approved by Deputy C.E.O. and C.E.O. for the appointment of Peons. Letter was sent to the Director, Primary Education, Maharashtra State, Pune to do the necessary arrangements for the appointment of candidates. It is alleged that letter dated 30th July, 2017, giving the names of 20 candidates for appointment in Zilla Parishad was received by Rural Development Department. The letter dated 31st July, 2017 was received directly by Shri Ramesh Pawar and Shri Pramod Kahu. The applicants in the aforesaid application. It is alleged that the said letter was in their custody till the inquiry officer of the Mantralaya visited Zilla Parishad, Palghar. There was no address nor identity of any candidates in the letter. There was another letter purportedly issued by the Director of Primary Education of Maharashtra stating the names of units from which these candidates belong. The said letter was without any outward number, date and address of candidates. The said noting dated 13th September, 2017 was put up before accused Ramesh Pawar alongwith other documents. The applicants Shri Pramod Kahu and Shri Ramesh Pawar had purportedly managed to inform the same to the appointed candidates. Another letter

dated 31st July, 2017, was received by accused Ramesh Pawar and Pramod Kahu, which was in their custody till 25th January, 2018. Again, similar procedure was followed and noting was put up on 4th November, 2017, which was approved by the C.E.O. Zilla Parishad, Palghar. Similar letters were received subsequently would record appointment of candidates and with similar note was put up and approved by the aforesaid person. It is alleged that the aforesaid applicants, Pramod Kahu and Ramesh Pawar connivance with each others, created forged letter in the name of department of Government of Maharashtra. It is alleged that the letters dated 30th July, 2017 and 31st July, 2017 had directly received by accused Ramesh Pawar and Pramod Kahu which were put up on noting for appointment of candidates. After all inquiry was conducted by the Deputy Secretary and to shelter their activities, the aforesaid persons had pressurized inward clerk Mrs. Geeta Jadhav to take backdated entry of the letters dated 30th July, 2017 and 31st July 2017. Mrs. Jadhav has stated above pressure tactics used by the aforesaid accused and the facts disclosing that though the inward number already existed in the inward register, she was forced to take backdated entry on the same number. Her statement has been recorded in that regard. Investigation revealed that

though Zilla Parishad did not receive the letters dated 30th July 2017 and 31st July, 2017, the accused Ramesh Pawar and Pramod Kahu put up the noting and impressed that these letters were genuine. According to prosecution, investigation revealed that the aforesaid persons had manipulated letters seeking confirmation of appointment of 80 candidates dated 22.12.2017. Care was taken that the letter should not reach to Mantralaya. It is alleged that both the aforesaid persons had pressurized Mr. Pitale, Peon of Zilla Parishad by asking him to give the statement that, he was the person who had delivered the letter in the concerned department of Mantralaya. Mr. Pitale submitted his report about how he was pressurized and the facts revealing that he had never taken any such letter to Rural Development and Water Resources Department, Mantralaya. It was revealed that stamp of receipt of letter on the letter dated 22.12.2017 with the aforesaid accused was forged. It was also revealed during the investigation that accused Ramesh Pawar received reply to letter dated 22.12.2017, print out of the said letter was taken and put up in the papers of Zilla Parishad. According to respondent, there is clear cut involvement of accused Pramod Kahu and Ramesh Pawar in forgery of documents. An affidavit-in-reply is filed by the

prosecution, showing details about the involvement of said applicants accused. However, it is not necessary to analyze the same in detail. The statements of witnesses were recorded during the course of investigation which reveals that the applicant in ABA No. 146 of 2019 has collected huge amount from various persons. The statement indicate that amount was deposited with him. The appointments were made through him for which the victims had paid the amount. Statement also reveal that the applicant Chandrakant Patil was acting in connivance with Shri Sakharam Mote and Yogesh Salunkhe. The investigation reveal the involvement of applicant Chandrakant Patil in giving assurance about appointment/employment and collection of amount. Thus, the said applicant had also played vital role in the crime. Statements of some of witnesses also recorded under Section 168 of the Criminal Procedure Code, disclosed the complicity of the accused. Learned Counsel for the applicant had also contended that the proceedings in relation to the subject matter are also pending before the High Court of Judicature at Aurangabad Bench and the investigation is being monitored. It is also noted that the Anticipatory Bail application preferred by the accused in similar offences registered with the concerned police station were rejected

by the Bombay High Court, Aurangabad Bench. However, as far as applicant in ABA No. 809 and 810 are concerned, it appears that they were the candidates who were in search of jobs. The application for Anticipatory bail preferred by the applicants for above 32 applicants vide ABA No. 809 of 2018 and 33 applicants vide ABA No. 810 of 2018 were stated to be victims of circumstances. They had never visited the office of Zilla Parishad. Considering their role, their custodial interrogation is not necessary and relief under Section 438 of Criminal Procedure Code can be granted to them. However, considering the nature of offence, and their role, in ABA No. 561 of 2018, 604 of 2018 and 146 of 2019, relief under Section 438 of Criminal Procedure Code, cannot be granted to them.

Hence, I pass the following order.

ORDER

- 1] (A) **ABA No. 146 of 2019, ABA No. 561 of 2018**
and ABA No. 604 of 2018

(i) ABA No. 146 of 2019, ABA No. 561 of 2018
and ABA No. 604 of 2018 stand rejected.

(B) **ABA No. 809 of 2018 and ABA No. 810 of 2018**

(i) ABA No. 809 of 2018 and ABA No. 810 of 2018 are allowed.

(ii) In the event of arrest of the Applicants in ABA No. 809 of 2018 and ABA No. 810 of 2018 in connection with C.R. No. I-48 of 2018 registered with Palghar Police Station, the Applicants be released on bail on their furnishing P.R. Bond in the sum of Rs. 15,000/- each, with one or more sureties in the like amount.

(iii) The Applicants shall report to the concerned Police Station once in a month i.e. on first Saturday of the month between 11.00 am to 01.00 pm till further order.

2] At this stage, learned counsel appearing for the Applicants in ABA No. 561 of 2018 and ABA No. 604 of 2018 submitted that the interim protection was granted to them vide order dated 26th April, 2018. They intend to challenge this order before the Hon'ble Supreme Court and hence said interim protection may be extended for the period of six weeks.

3] Learned APP strongly opposed the prayer for extension of interim relief on the ground that the investigation has been pending since long.

4] Considering the fact that the interim protection was running in favour of the said Applicants since 26th April, 2018, the same is extended by the period of four weeks.

(PRAKASH D. NAIK, J.)