

HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1531 OF 2019

Sanjay Dhanpal Bhojkar	... Applicant
Versus	
The State of Maharashtra	... Respondent

Mr. Anand S. Patil, Advocate for the Applicant.
Ms. S.S. Kaushik, APP for the State/Respondent.
Mr. Sachin S. Sawant, HC-1167, Hupari Police Station, Dist. Kolhapur.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 15th July, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with CR No. 146/19 registered with Hupari Police Station, Dist. Kolhapur under Section 379 of the IPC.
2. The FIR in this case is lodged by one Sheetal Shirhatti on 28th June 2019. The first informant is a Head Master of Dhanpal Bhojkar High School, Taldange, Taluka Hatkanangale. He was appointed as teacher in the year 1994 and since the year 1997 he is working as Head Master. There are four peons, five teachers and one clerk

working in the school. In the FIR itself, the first informant has mentioned that there was a dispute between him and the present applicant since the year 2006. The present applicant is the president of an institute which is conducting the school. It is further mentioned in the FIR that on 27th June 2019, the informant had gone to the office of Education Officer, Zilha Parishad, Kolhapur. He came back at 6.15 p.m. On the next day i.e. on 28th June 2019 when he went to his school, he noticed that the muster roll and the movement register were not in the office. He took search in the high school, but since it was not found he concluded that those registers must have been stolen by the present applicant and therefore, he lodged this FIR at around 8.10 p.m. on 28th June 2019 against the present applicant.

3. I have heard Mr. Anand Patil, learned counsel for the applicant and Mr. Kaushik, learned APP for the State.

4. Mr. Patil submitted that admittedly as mentioned in the FIR, there is a long standing dispute between the head master/informant and the present applicant. Therefore, the applicant is needlessly accused of committing the offence. He submitted that, as a president of the institute conducting the school, he had full authority to inspect the documents and it cannot be said that the first informant

was having exclusive custody of those registers. Thus, according to him no offence is committed by the applicant. Moreover, those registers are already deposited in the police station. Therefore, his custodial interrogation is not at all necessary.

5. As against this, the learned APP submitted that there is past history of dispute between the first informant and the applicant. There is one previous complaint against the present applicant instituted by the same first informant. She submitted that the applicant should not have resorted of taking away the registers without informant's permission.

6. Learned APP produced the investigation papers before me. One of the witnesses Sanjay Balaso Kumboje has given a statement. He was working as a peon in that school. He has stated that the applicant had come to the school on 27th June 2019. He had informed this witness and others that he was taking those two registers with him for the purpose of work related to the institution. He had told this witness to inform the head master/informant. According to this witness, the head master had not returned during school hours on 27th June 2019. In the night, this witness had informed the head master/informant telephonically that the applicant had taken the registers with him.

7. Apart from this statement, the investigation papers also contained the panchanama dated 10th July 2019, which shows that those two registers were deposited in the police station under the panchanama.

8. Looking at the background of the dispute between the first informant and the applicant, it appears that the informant has taken advantage of the situation and had immediately rushed to police station to lodge the FIR against the present applicant. It cannot be said that though the applicant was president of the institute, he had no authority over any property concerning school records. In any case, he had informed the peon before taking the registers from school. Therefore, he had not taken away the records stealthily. It is doubtful if the offence under Section 379 is made out against the applicant. In any case, the property is now returned to the police and for that purpose custodial interrogation of the applicant is not necessary.

9. Considering the above discussion, the applicant has made out the case for relief of anticipatory bail. Hence, the order:

ORDER

- (i) In the event of his arrest in connection with CR No. 146/19 registered with Hupari Police Station, Dist. Kolhapur,

the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

(ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)