

HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1543 OF 2019

Rakesh Radhe Shyam Mittal & Anr.	... Applicants
Versus	
The State of Maharashtra	... Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 1544 OF 2019

Dr. Tahir Husain Yakub Shaikh & Anr.	... Applicants
Versus	
The State of Maharashtra	... Respondent

Mr. Hassnain Kazi with Mr. Raheed Kazi, Advocates for the Applicants in both ABAs.

Ms. S.S. Kaushik, APP for the State/Respondent in ABA 1543/19.

Mr. S.H. Yadav, APP for the State/Respondent in ABA 1544/19.

Mr Asaram Shete, API, Wanwadi Police Station, Pune City.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 16th July, 2019.

P. C. :-

1. Both these applications are decided by this common order as they arise out of the same offence i.e. CR No. 360/19 registered at Wanwadi Police Station, Dist. Pune under Sections 420, 465, 468, 471

read with 34 of the IPC and Section 10 (i) (ii) & (iii) of The Maharashtra Unauthorized Institutions and Unauthorized Courses of Study in Agriculture, Animal and Fishery Sciences, Health Sciences, Higher, Technical and Vocational Education (Prohibition) Act, 2013. (Hereinafter referred to as the 'Said Act').

2. The FIR in this case is lodged by Haribhau Shinde, who was working with educational directorate, Pune. He has mentioned in his FIR that they had received a complaint that one Commonwealth Vocational University, Pune ('said institute' for short) was conducting unauthorized study courses. On receipt of the complaint, inquiry was conducted. The officers of the directorate appointed inquiry committee, who visited the work place of the institute. It was reported that the said institute was not authorized by any university, State Government or Central Government. Therefore, the said institute was working in violation of the Provisions of the said Act. It is mentioned in the FIR that the institute had distributed Phd. degrees on behalf of Commonwealth Vocational University Kingdom of Tonga. According to the first informant, said distribution of degrees was in violation of rules. Therefore, the present in-charge of the institution was given show cause notice and they were directed to return the fees taken from different students. The directorate also published a public notice mentioning that students should not take admission for such courses in that institute. The institute was fined under the provisions of the said Act. Even that fine was not paid. It is further mentioned in the FIR that the applicant no. 1 Rakesh Mittal in ABA 1543/19 was working as a teacher at Lilavati College, Pune and applicant no. 2 Dr. Aftab Shaikh

in ABA 1543/19 was working in Pune College. The FIR further mentions that applicants Dr. Tahir Shaikh and Dr Riyasat Peerzade in ABA No. 1544/19 were also party to the conduct of said courses. Based on these allegations, the FIR is lodged.

3. Heard, Mr. Kazi, learned counsel for the applicants and Ms. Kaushik and Mr. Yadav, learned APPs for the State.

4. Learned counsel for the applicants submits that the applicants are already facing proceedings under the said Act and appropriate procedure under that Act is not followed when they were directed to pay the fine of Rs. 5 lakhs. They were not given opportunity to file an appeal. He further submitted that they were distributing only honorary degrees for the work carried out by their candidates. He submitted that they were not conducting any courses. Therefore, there is no question of misleading public in general. He further submitted that the applicants Tahir Shaikh and Riyasat Peerzade had already resigned from the institute since 2017 and they had no concern with the institute.

5. As against this, learned APP relied on the investigation carried out so far. The investigation papers are produced before me. The investigation papers contain advertisement issued by the institute, in which various courses for Phd degrees are mentioned viz. Phd. In Marketing, social science, finance, etc. It makes a reference to the registration fees. Besides this, the advertisement mentions that the candidates would be provided with essential material for research and study, including tutorials and work shops. Thus, advertisement itself mentioned that some courses were conducted by the said institute for

which tutorials were given and work shops were conducted for different courses. The investigation papers also include a letter dated 18th September 2018 issued on behalf of Commonwealth University which mentions the registration fees of Rs. 1,20,000/-, which was required to be paid by each of the candidates. Thus, it is more than clear that the institute was not simply awarding degrees to the achievers in the society, but was accepting fees for the courses. This is definitely misleading. Therefore, at this stage, even the offences of IPC are clearly made out. It is necessary to find out other aspects of conspiracy and to find out as to how many victims were cheated. Hence, custodial interrogation of the applicants is necessary. Submissions of the learned counsel for the applicants in application in ABA No. 1544/19 that applicants had resigned in the year 2017; also does not make much difference because offences were committed prior to that and the design to commit the offence of cheating since then is clear. In this view of the matter I am not inclined to grant relief of anticipatory bail to the applicants. Their custodial interrogation is necessary. Hence, both the applications are rejected.

(SARANG V. KOTWAL, J.)