

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1882 OF 2018

Dr.Ajay Dadasaheb Jankar	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

**WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1908 OF 2018**

Asmit Vikas Gharat	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

**WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1909 OF 2018**

Pradip Balaram Mumbaikar	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.Rizwan Merchant a/w. Mr.Altaf Khan i/b. Mr.Tushar Kochale for Applicant in ABA/1882/2018.
Ms.S.F. Sothe for Applicant in ABA/1908/2018.
Mr.Farooq Shaikh for Applicant in ABA/1909/2018.
Ms.J.S. Lohokare, A.P.P. for Respondent-State.
Mr.Baban Avhad, PSI, Nerul Police Station.

CORAM : A.S. GADKARI, J.

DATE : 8th April 2019.

P.C. :

1] The applicants are apprehending arrest in connection with C.R. No.I-0291 of 2018 dated 10/08/2018 registered with Nerul Police Station, Navi Mumbai, for the offence punishable under Section 419, 420, 465, 467, 468, 471, 380, 408, 201 read with 34 of the Indian Penal Code and Section 3, 4, 5, 6, 7, 8 of the Maharashtra Prevention of Malpractices at University, Board and Other Specified Examinations Act, 1982.

2] The applicant in ABA No.1882 of 2018 has granted interim relief by an order dated 14th September 2018 and was directed to attend the Investigating Officer on stipulated dates, to join the process of investigation.

3] The applicants in ABA Nos.1908 of 2018 and 1909 of 2018 were granted interim relief by an order dated 19th September 2018.

4] Heard the learned counsels for the respective applicants and the learned APP for the State. Perused the record of investigation.

5] The learned APP, on instructions, submitted that the applicant in ABA No.1882 of 2018 has complied with the directions issued by this Court and has attended the Investigating Officer on

stipulated dates.

6] The First Investigation Report is lodged by Dr.Karuna Sunil Ramraje.

The prosecution case in brief is that, the applicant in ABA No.1882 of 2018 was working as a 'Lecturer' and was posted as a 'Senior Supervisor' for the examination of LLB, 2nd Year, which were conducted on 11th May 2016 by MGM College having Centre at Dr.D.Y. Patil College. That the applicant in ABA No. 1882 of 2018, namely, Ajay Jankar, was working as a 'Senior Supervisor, the applicant in ABA No.1908, namely, Asmit Gharat was working as a 'Junior Supervisor' and the applicant in ABA No.1909 of 2018, namely, Pradip Mumbaikar was working as a 'Clerk' with the said MGM College, Navi Mumbai and all the three applicants were associated with the Examination of 2nd Year LLB, which were conducted in the month of May 2016. It is further prosecution case that on 11th May 2016, Answer-sheet No.5498, and on 12th May 2016, Answer-sheet No.37714 and 37578, were marked by pencil with an endorsement “All questions are compulsory” and the said answer-sheets were separately tagged by the applicants with a view to favour the concerned students. It is also the prosecution case that, about

12 other answer-sheets of the students from D.Y. Patil Law College were also marked with similar endorsement by the applicants. That the applicants in connivance with each other intervened in the process of investigation and has committed malpractice in the said examination. In the premise, the first information report is lodged.

7] Mr. Merchant, the learned counsel for the applicant submitted that, for the examination, the act which was alleged to be committed by the applicants in May 2016, the present crime is registered in August 2018 by the informant with whom the applicant Ajay Jankar is having difference of opinion pertaining to the issue of seniority in service. It is submitted that the applicants have nothing to do with the said procedure adopted with the endorsement put up by somebody and the applicants are being dragged only because the applicant Ajay Jankar is an adversary of the informant. It is submitted that the other two applicants are his subordinates and they have been unnecessarily roped in the present crime.

The learned counsel appearing for the respective applicants supported the contention of Mr. Merchant.

8] Mr. Merchant submitted that all the documents mentioned in

the first information report are already either already seized by the police and/or in the custody of the University of Mumbai and for its recovery, the custodial interrogation of the applicant is not necessary. He along with other respected counsels, therefore, prayed that the applicants may be protected by pre-arrest bail.

9] A perusal of the first information report would *prima-facie* indicates that the application of Sections 467 and 380 of the Indian Penal Code to the present crime is misplaced. *Prima-facie*, it appears that there is no valuable security and or document as mentioned in Section 467 of the Indian Penal Code, which has been either forged and/or fabricated. So also, in the present crime, *prima-facie* it appears that the criteria for application of Section 380 is silent. As far as application of Section 3 and 4 of the Maharashtra Prevention of Malpractices at University, Board and Other Specified Examinations Act, 1982, is concerned, it is difficult for the Investigating Agency to substantiate its invoking to the present crime. Rest of the offences alleged against the applicants are having punishment upto seven years. The record and or the documents involved in the present crime are either already seized by the Investigating Agency or in the possession of the University of

Mumbai, which can be seized by the Investigating Agency by following due process of law.

10] The applicant Ajay Jankar is a PHD holder of University of Mumbai and is highly qualified person. It is submitted that he was working as a 'Lecturer' in the said Law College.

11] The applicant Asmit Vikas Gharat is a 'practicing Advocate' and his services were rendered by the concerned college for conducting the said Law Examination in May 2016.

12] The applicant Pradip Balaram Mumbaikar was working as a 'Clerk' in the said MGM College and it is submitted that now he has been removed from service.

13] The record indicates that applicant Ajay Jankar has complied with the directions issued by this Court vide its order dated 14th September 2018 and has co-operated with the process of investigation.

14] In view of the above, the applicants can be protected by pre-arrest bail.

Hence, following order.

- (i) In the event of arrest in C.R. No.I-0291 of 2018 dated 10/08/2018 registered with Nerul Police

Station, Navi Mumbai, the applicants shall be released on bail on their furnishing PR bond in the sum of Rs.25,000/- each, with one or two local separate solvent local sureties in the like amount.

- (ii) Applicants shall not tamper with the evidence and/or interfere with the process of investigation.
- (iii) Applicants to cooperate with the process of investigation.
- (iv) Applicants shall provide their permanent residential address along with their mobile numbers and/or any other number to contact them to the Investigating Officer within a period of two weeks from today.
- (v) Applications are allowed in the aforesaid terms.

[A.S. GADKARI, J.]