

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1915 of 2019**

1. Balram Vaishnav S/o. Shri Ayodhya Prasad Vaishnav Aged About 41 Years R/o. Village- Khaparidih, P.S.- Gidhouri, Civil And Revenue District- Balodabajar- Bhatapara Chhattisgarh.
2. Narayan Vaishnav S/o Shri Mohan Das Vaishnav Aged About 38 Years R/o. Village-Paras Nagar Kasdol, P.S.-Kasdol, Civil And Revenue District- Balodabazar-Bhatapara Chhattisgarh

---- Applicants**Versus**

- State of Chhattisgarh through The Station House Officer Police Station-Kasdol, Civil And Revenue District-Balodabazar-Bhatapara Chhattisgarh.

---- Respondent

For Applicants	:	Mr. Sunil Sahu, Advocate.
For Respondent/State	:	Mr. Alok Bakshi, Addl. Advocate General

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order on Board****29-06-2020**

Heard.

1. The applicants have preferred this bail application under Section 438 of Code of Criminal Procedure, 1973 for grant of anticipatory bail apprehending their arrest in connection with Crime No. 827 of 2019 registered at Police Station Kasdol, District Balodabazar – Bhatapara (C.G.) for alleged commission of offence under Sections 420, 467/34 of IPC.

2. Case of the prosecution is that one student Kaushilya had appeared in the Higher Secondary Examination in the year 2018

under the open school examination system. She was initially declared fail, because she was shown having obtained zero marks in Hindi subject. She made a complaint, on the basis of which an enquiry was made. In the said enquiry it was found that answer-sheet, which was issued to the concerned student in the examination hall by the concerned invigilator and Incharge, was different than the answer-sheet which was checked and zero marks were awarded finding that the answer-sheet was completely blank. Later-on, the open school board gave average marks and awarded 61% in Hindi subject to Kaushilya and she was declared pass. On 7-11-2019 Kaushilya lodged first information report against the present applicants alleging that Rs.7,000/- was demanded from her on 24-4-2018 for securing marks through illegal means, but when the said amount was not given, her paper was changed.

3. Learned counsel for the applicants would submit that the allegations against the present applicants are after-thought and it is a case of false implication. It is submitted that firstly the allegation of demand of money is said to have been made on 24-4-2018, but the FIR has been lodged after more than one year. Secondly, it is submitted that so far as applicant Narayan Vaishnav is concerned, he is a teacher, but he was posted in some other school and was not allotted any examination duty in the examination centre in any capacity on 24-4-2018, much less, any duty as Examination Center Superintendent or Invigilator in respect of examination in the subject of Hindi in which complainant Kaushilya appeared and wrote

examination on that day. It is further submitted that applicant Balram Vaishnav is no-where in the School Examination Department. It is was further submitted that the allegation of demand of money as stated by complainant Kaushilya is not supported from any material, therefore, the complaint is false implication.

4. On the other hand, learned counsel for the State opposing prayer for grant of anticipatory bail would submit that as per the FIR and material collected in the investigation, serious allegation against the applicants is that they are involved in demand of money from the student and also they intentionally changed answer-sheet of the complainant Kaushilya, because the answer-sheet which was issued to Kaushilya and written by her did not actually reach the open school and some other answer-sheet reached there for valuation which was found complete blank and, therefore, initially zero marks were awarded.

5. I have heard learned counsel for the parties and perused the documents.

6. On *prima facie* consideration, it was found that FIR was lodged as late as on 7-11-2019 alleging that demand of Rs.7,000/- was made on 24-4-2018. If that was so, it is not known as to why the complainant did not make any report on 24-4-2018. The results were also declared in the month of June 2018, where complainant Kaushilya was declared fail. Even, at that point of time, no complaint was made. It appears that when she reported the matter to the Board, enquiry was made and then she was benefited by

average marking and declared pass. It was only as late as on 7-11-2019 that the report was made against the present applicants.

More-over, the documents obtained by the complainant under Right to Information Act, from the Board and school show that the applicant Narayan Vaishnav was not appointed as Examination Centre Superintendent or Invigilator, nor given any duty in connection with examination in the concerned centre where-from Kaushilya appeared and wrote Hindi paper. There is hardly any material collected by the prosecution to show as to how it was possible for the applicants to change the answer-sheet of the complainant Kaushilya.

Learned State counsel could not satisfy that any offence has been registered against the concerned Examination Centre Superintendent or Invigilator who are entrusted with the examination duty in this center and the hall where-from Kaushilya wrote examination.

7. In view of the direction issued earlier by this court, learned State counsel further submits that he has received a copy of memo dated 4-1-2019 from the Open School Board which is an enquiry report conducted by a committee consisting of senior official. Though, in that report it has been found that the answer-sheet of Kaushily was changed, the report also says that there is no material to implicate the present applicants. Therefore, present appears to be a fit case for grant of anticipatory bail.

8. Accordingly, the application is allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and the applicants shall abide by all the following terms and conditions.

- (i) that the applicants shall make themselves available for interrogation by a Police Officer as and when required;
- (ii) that they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.
- (iii) that they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)

J U D G E

Raju