

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (ABA) 88 OF 2020

(Pranav s/o. Dattatray Pawar & Ors..vs.. State, thr PSO, Bhandara)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri Anil Mardikar, senior counsel assisted by Ms. Kshirsagar for applicants.
Shri S.S. Doifode, Addl. Public Prosecutor for non-applicant.

CORAM: ROHIT B. DEO, J.
DATE:05.03.2020.

The applicants are apprehending arrest in Crime 22/2020, registered with Police Station, Bhandara for offences punishable under sections 420, 464, 468, 471 read with section 34 of the Indian Penal Code.

2. The report dated 15.1.2020, on the basis of which the crime is registered, is lodged by Smt. Manjusha Thakkar, the Dy. Chief Executive Officer of Zilla Parishad, Bhandara. The gist of the report is that the District Selection Committee, Bhandara conducted the competitive examination for one post of Junior Engineer (Civil) and two posts of Anganwadi Supervisor. The examination was held on 12.1.2020. The OMR sheets were scanned and were tallied with the model answer sheet. The scanning machine was hired from SMB Systems Pvt. Ltd.. The scanning was done by the absconding accused Sagar Umbarkar and his associates.

3. The allegation in the report is that after checking the OMR sheets, it was revealed that the candidates, who scored the highest marks, scored abnormally high marks *vis a vis* the other candidates. The authorities, therefore, suspected foul play. The District Selection Committee then verified the OMR sheets of the candidates only to note a difference of ink and signature of the invigilator on the OMR sheets. Thereafter, the CCTV footage of the scanning and checking process was seen and a conclusion was drawn that the answer sheets are replaced and substituted and the signature of the invigilator is forged on the substituted answer sheets. As abundant precaution, the candidates, who scored the highest marks, were summoned by the District Selection Committee and certain questions were asked, which the candidates failed to answer, despite having scored abnormally high marks.

4. The applicants are the employees of SMB Systems Pvt. Ltd.. As noted supra, the co-accused, who according to the prosecution, is the person, who substituted the answer sheets physically, Sagar Umbarkar, is absconding.

5. I have heard the learned senior counsel Shri Anil Mardikar and the learned Addl.P.P. Shri S.S. Doifode. The Investigating Officer Smt. Rina Janbandhu, also assisted the Court. I was also shown the CCTV footage.

6. Perusal of the affidavit in reply would reveal that the opposition to bail is predicated on the suspicious movements of the applicants while carrying out the scanning work. The submission is that while the absconding accused Sagar Umbarkar is clearly seen in the CCTV footage substituting or replacing the genuine answer sheets, the movements of applicant 2 in particular are also suspicious and that he appears to have made some attempt to ensure that the substitution of the answer sheets is facilitated and hidden from CCTV camera. Prima facie, the movements of applicants 1 and 3 as discernible in the CCTV footage do not appear to be suspicious. This of course, is a prima facie observation and it would be open for the Investigating Officer to contend to the contrary, if the investigation unearths any specific role of the applicants 1 and 3. In this view of the matter, I am inclined to grant pre-arrest bail to applicants 1 and 3.

7. In so far as applicant 2 Ashish Rathi is concerned, I am not inclined to grant blanket anticipatory bail. I have seen the CCTV footage. The Investigating Officer has vehemently urged that custodial interrogation of applicant 2 Ashish Rathi would be necessary to unravel the crime and to throw light on its various contours. At any rate, according to the Investigating Officer, the possibility that applicant 2 is not involved will have to be ruled out and that would not be possible without custodial interrogation. The Investigating Officer contends that since applicant 2

Ashish Rathi was in contact with the absconding accused, his custodial interrogation is all the more necessary. I would refrain from making any decisive observation on the submissions of the Investigating Officer, lest the applicant 2 or the Investigating Agency is prejudiced at a later stage. In response to this Court's query, the learned Addl. P.P. Shri S.S. Doifode states, on instructions obtained from the Investigating Officer, that the prosecution shall be satisfied if applicant 2 Ashish Rathi is available for custodial interrogation for three days. In order to strike a golden balance between the right of applicant 2 Ashish Rathi not to be deprived of liberty in the absence of a compelling prima facie case, and the right of the Investigating Agency to custodially interrogate applicant 2 as a legitimate tool of investigation, I am inclined to grant anticipatory bail with certain conditions.

(i) In the event of arrest in Crime 22/2020, registered with Police Station, Bhandara for offences punishable under sections 420, 464, 468, 471 read with section 34 of the Indian Penal Code, applicant 1 and 3 shall be released on furnishing P.R. Bond of ₹ 20,000/- each with a surety of like amount.

(ii) In so far as applicant 2 Ashish Rathi is concerned, he shall be available to the Investigating Officer for custodial interrogation from 10.00 a.m. of 12.3.2020 till 10.00 a.m. of 15.3.2020.

(iii) In the event of arrest in Crime 22/2020, registered with Police Station, Bhandara for offences punishable under sections 420, 464, 468, 471 read with section 34 of the Indian Penal Code, applicant 2 Ashish s/o. Ashok Rathi Rathi shall be released on furnishing P.R. Bond of ₹ 20,000/- with a surety of like amount.

(iv) Till the filing of the charge sheet, the applicants shall attend the Police Station, Bhandara, as and when directed by the Investigating Officer.

Judge

Belkhede RS