

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 426 OF 2021

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| 1. | Ahasanulla Hasansab Quadri
Age 73 years, Occu: Agri.
Khadakpura Galli, AUSA, Dist. Latur | ... | Applicants |
| 2. | Reshma d/o Khajasab Shaikh
Age 38 years, Occu: Service
R/o Sahana Manzil, Khorli Galli, Latur | | |
| 3. | Shahana d/o Habiboddin Quadri
Age 65 years, Occu: Household
R/o Sahana Manzil, Khorli Galli, Latur | | |

VERSUS

The State of Maharashtra, Through Police Inspector, Shivaji Nagar Police Station, Latur, Dist. Latur	...	Respondent
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Mr. Amol G. Vasmatkar h/for Mr. Patel Fayaz K., Advocate for applicants
Mr. N. T. Bhagat, A.P.P. for the State.

WITH

ANTICIPATORY BAIL APPLICATION NO. 362 OF 2021

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|----|--|-----|-------------------|
| 1. | Mohan s/o Shankarrao Kadam
Age 68 Years, Occu: Retired
R/o Gavali Nagar, Latur Dist. Latur | ... | Applicants |
| 2. | Bhagwan s/o Tukaram Shinde,
Age 55 years, Occu: HH.
R/o Labour Colony, Latur Dist. Latur | | |

VERSUS

The State of Maharashtra, Through Police Inspector, Shivaji Nagar Police Station, Latur, Dist. Latur	...	Respondent
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Mr. S. G. Rudrawar, Advocate for the applicants
Mr. N. T. Bhagat, A.P.P. for the State.

CORAM : PRAKASH D. NAIK, J.
DATE : 5th October, 2021

ORDER:

1. The applicants in both these applications are apprehending arrest in connection with C.R. No. 288 of 2017 registered with Shivaji Nagar, Latur for the offences punishable under Sections 420 and 409 of the Indian Penal Code ('I.P.C.' for short). The F.I.R. was registered on 24.08.2017. Subsequently sections 465, 468, 471 read with section 34 I.P.C. were added.

2. The case of prosecution is that the informant Vitthal Mahapurrao Bhosale, resident of Latur states that during the period from 2010 11 and 2012-13, the Education Officer (Primary) in collusion with the officers/officials of the Education Department of Zilla Parishad, Latur and the Presidents, Secretaries and the Headmasters of the schools sanctioned 260 divisions of primary schools illegally. Though surplus teachers were available and they were required to be absorbed and appointed, 369 fresh teachers were illegally appointed by the above named authorities in collusion with each other. Some of the divisions of the schools, which were closed in the year 1995-96, were revived and new teachers were appointed illegally. Some of the divisions, which were approved on no grant basis, were given 100% grants. Proper procedure as prescribed under Rule 5 and 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 ("Rules" for short)

was not followed while appointing teachers / Shikshan Sevaks. Roaster also was not followed. Bogus staffing pattern was made basis for giving appointments. When the informant came to know about these illegalities, he complained to the Divisional Deputy Director of Education, Latur and the Director of Education (Primary), Pune. A committee headed by Mr. S.K. Ghonmode was appointed to conduct the enquiry. The said committee submitted the report and observed that 369 teachers were illegally appointed for 262 divisions in 99 primary schools in Latur District. Huge amount was misappropriated.

3. The applicants preferred applications for anticipatory bail before the Sessions Court. The applications were rejected by order dated 03.06.2019.

4. Learned counsel for the applicants in ABA No. 426/201 submits that applicant No.1 is Secretary of Qadriya Education & Welfare Society, Ausa, Applicant No.2 is Headmistress of Dr. Quadri Primary School (Urdu), Latur and Applicant No.3 is President of Qadriya Education & Welfare Society, Ausa. The applicant No.1 is aged about 73 years and applicant no.3 is aged about 65 years. It is submitted that custodial interrogation of the applicants is not necessary. The applicants have no direct involvement in the crime and they have acted as per the procedure of Office of the Education Officer. Institute of the applicants is a minority school and there are no additional divisions granted by the

authorities and therefore, they have not committed any offence. Minority institutions cannot be compelled to absorb surplus teachers from other schools. The applicants have not given appointment to surplus teachers and not created additional division. They have not applied for approval or sanction of new posts of teachers. The applicants have produced required documents and cooperated with investigation.

5. Co-accused Baburao Sambhajirao Jadhav and others had preferred application for anticipatory bail before this Court, which was rejected by this Court by order dated 17th April, 2018. The said order was challenged before the Apex Court and vide order dated 14th May, 2018, the appeal preferred by Baburao Sambhajirao Jadhav and others was allowed by the Apex Court granting anticipatory bail to them. Several other accused were granted anticipatory bail.

6. Learned counsel for the applicant in ABA No.362/2021 made similar submissions. It is submitted that the applicants herein have no connection with any crime; no specific overt act has been attributed to them. The applicants have not demanded additional division to their school. On one vacant post due to the retirement of employee, teacher was appointed to avoid inconvenience by following procedure. They do not have criminal antecedents.

7. Learned A.P.P. submits that investigation is still in progress. Learned A.P.P., however, on instructions, admitted that several other accused in this case were granted anticipatory bail.

8. The first information report was registered 24.08.2017 and investigation is in progress since then. The report pointed out by learned A.P.P. mentions that about 127 persons were granted anticipatory bail by the High Court and Apex Court. About 18 persons from the Education Department were impleaded as accused and amongst them, 7 persons were granted anticipatory bail. About 28 accused have expired. I have perused the order passed by the Apex Court granting anticipatory bail to the co-accused Baburao Jadhav and others whose application was rejected by this Court. The applicants therein were President and Secretary of the Education Institute at Latur. One of them was Headmaster of School.

9. Considering the aforesaid factual aspects, the applicants need not be subjected to custodial interrogation.

10. Hence, I pass the following order :-

ORDER

- i. Anticipatory Bail Application Nos. 426 of 2021 and 362/2021 are allowed;

- ii. In the event of arrest of the applicants in both applications in C.R. No. 288 of 2017 registered with Shivaji Nagar, Latur, the applicants in both the applications be released on bail on executing PR bond in the sum of Rs. 25,000/- each with one or more sureties in the like amount;
 - iii. The applicants shall appear before the Investigating Officer as and when called for.
11. Anticipatory Bail Applications stand disposed of accordingly.

(PRAKASH D. NAIK, J.)

JPC