

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

ANTICIPATORY BAIL APPLICATION NO. 456 OF 2021

Sow. Mangala w/o Ramesh Dhumal
Age : 48 years, Occ : Asst. Teacher,
R/o. P.M. Nyaymandir, Ranjangaon
Shenpunji, Tq. Gangapur, Dist.
Aurangabad

APPLICANT

V E R S U S

The State of Maharashtra

RESPONDENT

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Mr. N.S. Ghanekar, Advocate for the Applicant
Mr. S.B. Narwade, APP for the Respondent-State

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W I T H

ANTICIPATORY BAIL APPLICATION NO. 430 OF 2021

Shyam S/o Baburao Golhar,
Age : 38 years, Occ : Service as
Asst. Teacher,
R/o. P.M. Nyaymandir, Ranjangaon
Shenpunji, Tq. Gangapur, Dist.
Aurangabad

APPLICANT

V E R S U S

The State of Maharashtra

RESPONDENT

Mr. K.F. Shingare, Advocate for the Applicant
Mr. S.B. Narwade, APP for the Respondent-State

W I T H**ANTICIPATORY BAIL APPLICATION NO. 439 OF 2021**

- [1] Kakasaheb S/o Eknathrao Jadhav **APPLICANTS**
Age : 56 years, Occ : President
Maharashtra Vidhardhi Vikas
Association, Ranjangaon Shenpunji,
Taluka Gangapur, Dist. Aurangabad,
P.M. Nyaymandir, Ranjangaon
Shenpunji, Tq. Gangapur, Dist.
Aurangabad
- [2] Kalpana w/o Kakasaheb Jadhav/Gawali,
Age : 48 yearfs, Occ. Secretary
R/o. P.M. Nyaymandir, Ranjangaon
Shenpunji, Tq. Gangapur, Dist.
Aurangabad

V E R S U S

The State of Maharashtra

RESPONDENT

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Mr. Rajendra Deshmukh, Senior Advocate alongwith Mr.
Govind A. Kulkarni, Advocate, instructed by Mr. N.S.
Ghanekar, Advocate for the applicants
Mr. S.B. Narwade, APP for the Respondent-State

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CORAM : P.D. NAIK, J.

DATE : 21st OCTOBER, 2021

PER COURT :

The applicants in all these applications are
apprehending arrest in Crime No.47/2021, registered

with Vedantnagar, Aurangabad, for offences under Sections 420, 468, 471 read with 34 of Indian Penal Code.

2. The original complainant filed private complaint before the Court of Judicial Magistrate, First Class, Aurangabad which was numbered as Criminal Misc. Application No. 198 of 2021. The complainant had sought direction for investigation of complaint under Section 156 (3) of Criminal Procedure Code. The complaint was filed on 19th January, 2021. The learned Judicial Magistrate, First Class, Aurangabad by order dated 9th of March, 2021, directed the concerned Police Station to register the offence against accused Nos. 1 to 6 as per Section 156 (3) of Cr.P.C. and investigate the matter. Thereafter, First Information Report was registered with Vedantnagar Police Station on 11th March, 2021 against Shri Kakasaheb Eknathrao Jadhav, Smt. Kalpana w/o Kakasaheb Jadhav, Shri Shyam Baburao Golhar, Smt. Mangla w/o Ramesh Dhumal and Dr. D.V. Chavan.

3. The case of the complainant is that Kakasaheb Jadhav is the Chairman of Maharashtra Vidyarthi Vikas Association, Ranjangaon (Senpunji). Mr. Mahendrasingh Prem Singh Patil was working in PM Dnyanmandir Jr. College, Ranjangaon. Smt. Kalpana w/o Kakasaheb Jadhav/Gawali is the Secretary. Mr. Shyam Baburao

Golar is the Ex-Head Master and current Assistant Teacher. Smt. Mangala w/o Ramesh Dhumal is Assistant Teacher and Dr. B.B. Chavan is the Education Officer, Zilla Parishad (Secondary). It is alleged that the college is under the control of Zilla Parishad (Secondary). On 14th of May, 2019, accused Nos.1 to 3 had sent proposal to accused No.5 for fresh approval of the appointment on the basis of letter bearing GP0/secondary division/6-8/13-14/28. Accused No.5 by letter dated 28th of May, 2019 granted fresh approval. By earlier letter dated 25th of November, 2013, bogus proposal was submitted. There was no name of accused No.4 in the original proposal and despite that fresh approval was granted to accused No.4. The accused in connivance of each other prepared bogus proposal and by deleting name of Sandhya Kisanrao Sapkal at serial No.4 and Ghaitilak Sandeep Sheshrao at serial No.12, illegally added name of accused No.4 and prepared the false documents for getting approval to the proposal. The case was that the proposal was false and cheated the Government by giving approval for appointment of accused No.5. Accused Nos.1 to 3 submitted bills to accused No.5 and sanctioned the same from him. Complaint was made to Deputy Director of Education and inquiry was conducted. By order dated 14th of June, 2020 direction was issued for registering offence. The police did not take action, hence complaint was filed before the Court.

4. Heard both sides. Learned Senior Advocate Mr. Rajendra Deshmukh, learned Mr. N.H. Ghanekar and Advocate Mr. K.F. Shingare advanced the submissions on behalf of the applicants. It is urged that the informant is not concerned with the alleged forged approval issued in favour of accused No.4. There is dispute between the complainant and Institution which is pending before the School Tribunal vide Appeal No.25 of 2018 wherein the complainant had challenged the order of termination of his services. The complaint is filed to exert pressure upon the applicants to reinstate the complainant. Accused No.4 Mangala Dhumal was appointed by order dated 1st of August, 2012. The name of accused No.4 was in the list dated 26th of March, 2013, wherein approval was granted in a Camp, which was organized in Shishu Vikas Secondary School, Shreynagar, Aurangabad. Approval was granted to several school teachers. It is averred from the letter dated 26th of March, 2013, issued by Education Officer of Zilla Parishad. The name of Mangala Dhumal was not listed for the first time in the list dated 25th November, 2013 as there was no approval for it in approval dated 26th of March, 2013. The copies of letters dated 26th of March, 2013 and 25th of November, 2013 are annexed to this application. The Education Officer while issuing the approval, had inadvertently mentioned the names of two teachers whose approval was not sought and in that approval,

name of accused No.4 was inadvertently not mentioned. This fact was brought to the knowledge of Education Officer and proper approval was issued mentioning name of accused No.4. The first approval was to be discarded, but it had been come on record. The complainant is trying to take benefit and create confusion. The offences under Sections 420, 468, 471 Indian Penal Code are not made out. The accused No.4, by letter dated 21st January, 2020, submitted the evidence of her service to Deputy Director Education. The accused No.4 filed an application dated 6th of November, 2020 to Education Officer for releasing her salary. The Education Officer Bhagwan Sonwane was in habit of issuing orders pertaining to matters with default. In respect of Kakasaheb Jadhav and payment of salary, two different orders were issued and both the orders had same date and outward number. Kakasaheb Jadhav filed Writ Petition before the High Court and order was passed therein in his favour. It is alleged that the salary amount of Rs.31,575/- deposited in the account of accused No.4 was repaid by her. She has not accepted the said amount. It was paid by Superintendent Pay Unit of Zilla Parishad, Education Office, Aurangabad. The in-charge Headmaster has filed affidavit before the Sessions Court. In the said affidavit, it is stated that he being Head Master of Dnyanmandir Jr. College, Ranjangaon, on 12th of March, 2021, he received phone call from Balasaheb Pawar,

Superintendent, Pay Unit and asked him to deposit Rs.31,575/- for accused No.4. He was told that it is a joint account and Education Officer's signature is necessary. He asked him to sign on the challan and his signature was obtained on challan and signature of Daund Madam was also obtained on the challan. Balasaheb Pawar went to State Bank of India and the amount of Rs.31,575/- was paid, which is evident from CCTV footage of the bank. The entire case is based on documentary evidence. The applicant Kakasaheb Jadhav is aged about 56 years. The applicant Kalpana Jadhav/Gawali and Mangala Dhumal are ladies. The services of complainant wife terminated. He has challenged his dismissal. He has grudge against the applicants. Custodial interrogation of the applicants is not necessary.

5. Learned A.P.P. submitted that the accused are involved in fabrication of documents. Investigation revealed the involvement of the applicants in the crime. The offence is of serious nature. The applications for Anticipatory Bail are rightly rejected by the Sessions Court. The complainant was working in Dnyanmandir Jr. College, Ranjangaon. The College is conducted by Maharashtra Vidhyarthi Vikas Association, Ranjangaon. The respondent No.5 was not at Aurangabad, but he signed with the approval in 2013. The service benefits were given to accused No.4

in 2019. The proposal was sent for approval of pay-scale on the basis of false documents. It is necessary to find out as to when and how the documents were prepared. The custodial interrogation of the applicants is necessary.

6. I have perused the documents on record, documents annexed to this application and investigation papers. Approval order dated 26th of March, 2013 includes names of 11 staff members of the College including accused No.4. The contention of the applicant is that initially the Education Officer has wrongly issued the approval order for 12 persons and, after realizing the mistake, the rectification was carried out by deleting names of Sandhya Sapkal and Santosh Ghaitidak who were not in service as they had already resigned from service. The said order was passed in rem. The accused No.3 was working as a Head Master in 2013 and presently is working as a Assistant Teacher. The case of the prosecution is that though Sandhya Sapkal and Santosh Ghaitilak were in service, their names were deleted from original approval order and name of accused No.4 was added. Their resignations were obtained under pressure and coercion. The informant has dispute with the Institution. The name of accused No.4 is at serial No.7 in the list dated 26th of March, 2013. This is evident from the letter issued by Education Officer of Zilla Parishad dated

26th of March, 2013. The name of accused No.4 is also reflected in the letter dated 25th of November, 2013. In the light of the documents relied upon by the applicants, they need not be subjected to custodial interrogation. The statement of Bhagwan Sonwane was recorded on 5th of April, 2021. He is Assistant Education Officer since 2019 at Latur. Prior to that, he was Education Officer (Secondary), Zilla Parishad, Beed from 14th of July, 2017 to 22nd of August, 2019. Kakasaheb Jadhav is the Chairman, Kalpana Jadhav is the Secretary and Shyam Golhar is the Ex-Head Master and present Assistant Teacher. He stated that approval was granted to the teachers from the School on 25th of November, 2013. The proposal was received by him and approval was granted. In the concluding paragraph, he stated that while he was working at Aurangabad in 2016, the School was not getting grants. The order was issued to him. Thereafter, on the basis of the order Head Master Shyam Golhar, Chairman Kakasaheb Jadhav and Secretary Kalpana Jadhav, he suspected that all these persons have appointed Mangala Dhumal as Assistant Teacher. He denied orders and his signatures. From the statement, it is apparent that the witness is not sure about his version and had stated that he was suspecting the involvement of the applicants. His version is contrary to the record. It is not disputed that the letter dated 25th of November, 2013 issued by Education Officer (Secondary) Mr.

Sonwane is genuine.

7. The entire matter relates to documents. The investigation has proceeded. The statements of witnesses are recorded. Several documents were collected by the Investigating Agency. Statements of Sandip Ghaytilak and Sandhya Sapkal were recorded on 7th of April, 2021. Sandip Ghaytilak has stated that he was pressurized to tender resignation as 'Sevak'. He was forced to sign on blank papers. Sandhya Sapkal has stated that she had tendered resignation as Assistant Teacher. The accused have tampered with the documents and approval is granted to another Teacher in her place. It is pertinent to note that the aforesaid version has come up after lapse of time when their statement is recorded. Thus, there are disputed questions of fact. The applicants need not be subjected to custodial interrogation. Hence, I pass the following order :-

O R D E R

- [i] ABA No. 456 of 2021, ABA No.430 of 2021 and ABA No.439 of 2021 are allowed.
- [ii] In the event of arrest of the applicants, in Crime No.47/2021 registered with Vedant Nagar Police Station, District Aurangabad, the

applicants be released on bail on executing P.R. bond in the sum of Rs.25,000/- each with one or more sureties in the like amount.

- [iii] The applicants shall appear before Investigating Officer on 26.10.2021, 27.10.2021 and 29.10.2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for, till filing of the charge-sheet.
- [iv] The applications are disposed of.

(P.D. NAIK, J.)