

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.860 OF 2021

1. Yuvraj Abhimanyu Valvi
Age : 38 years, occ : assistant teacher
R/o At Post Taloda, Taluka Taloda,
District Nandurbar.
2. Sandip Abhimanyu Valvi
Age : 42 years, occ : Junior Clerk
R/o At Post Taloda, Taluka Taloda,
District Nandurbar.
3. Harshal Abhimanyu Valvi
Age : 39 years, occ : Junior Clerk
R/o At Post Taloda, Taluka Taloda,
District Nandurbar.
4. Vasydev Nimba Mistari
Age : 32 years, occ : Peon
R/o At Post Taloda, Taluka Taloda,
District Nandurbar.

Applicants.

Versus

The State of Maharashtra.

Respondent.

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Mr. V.D. Sapkal, Senior Counsel i/b Mr. S.R. Sapkal and Mr. A.B.
Chormal, Advocates for the applicants.
Mr. V.S. Badakh, A.P.P. for respondent – State.
Mr. S.V. Natu, Advocate assisting the PP.

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CORAM : **PRAKASH D. NAIK, J.**

DATE : **11th October 2021.**

ORDER :

1. The applicants are seeking anticipatory bail in F.I.R. No.400/2021 registered with Akkalkuwa Police Station, District Nandurbar for the offences punishable under Sections 420, 465, 467, 468, 120-B read with Section 34 of the Indian Penal Code (for short, "I.P.C.").
2. The original complainant filed private complaint before the Court of Judicial Magistrate, First Class, Akkalkuwa on 16th October 2020 seeking directions for investigation. By order dated 3rd June 2021, the Court issued directions under Section 156 (3) of the Code of Criminal Procedure (for short, "Cr.P.C.") directing investigation against accused Nos.1 to 6 for the offences under Sections 420, 465, 467, 468, 120-B read with Section 34 of the Indian Penal Code (for short the "I.P.C."). The F.I.R. was registered on 10.06.2021.
3. The case of prosecution is that, the complainant is founder Vice President of Satpuda Adiwasi Lokseva Mandal. The trust is conducting school at Akkalkuwa. The accused Nos.1 to 4 prepared false resolutions and other documents by acting in connivance with other officials of the trust to show that they were working as Peon, Junior Clerk, Assistant Teacher etc. from 2008 onwards. They forwarded salary proposal to Zilla Parishad and Education Department and caused loss of around One Crore to Government. Accused Nos.1 to 3 are attempting to have control over

trust. Accused Nos. 5 and 6 acted in connivance with others and on the basis of false documents showed that they are appointed as Shikshan Sevak. Proposal was sent to Government for salary benefits. Letter dated 05.08.2020 issued by Director, Education mentions that accused No.1 Yuvraj was Assistant Teacher in this school in June 2020. Accused No.2 Sandeep and accused No. 3 Harshal were Junior Clerks in 2018-2019 and accused No. 4 Vasudev was Peon in 2018-2019. The Deputy Director noted objection to documents relating to their appointment. Similar objection was noted for accused Nos.5 and 6.

4. The applicants preferred application for anticipatory bail before the Court of Session, Shahada. Interim relief was granted to them by order dated 14th June 2021 with direction to attend the Police Station on 16th June 2021 and 17th June 2021 and thereafter as and when required by the Investigating Officer after giving prior written notice of at least 24 hours. They were also restrained from directly or indirectly making 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 police officer. The application was subsequently rejected by order dated 23rd July 2021.

5. Learned Advocate for the applicants submitted that complaint is false. The Trust was registered on 01.06.1976. Father and mother of the applicant Nos.1 to 3 are founder member of the Trust. There are three groups in the Trust. The complainant is the President of one group. Change report of executing body is filed

from time to time. The trust conducts secondary school at Nawapada, Akkalkuwa. The District Judge has rejected change report of the group. The applicants' group filed writ petition before this Court, which is pending. Father of applicant Nos.1 to 3 filed complaint against complainant and others under Section 420, 468, 471 read with Section 34 of the I.P.C. vide Crime No. 45/1998. The complainant had filed R.C.C. No. 137/2013 against mother of applicant Nos.1 to 3. There was vacancy of Assistant Teacher and Junior Clerk, hence the Management issued an advertisement for the post. Candidates were invited for interview. Marks were allotted. Considering marks secured by applicants, they were selected. The applicants submitted joining reports. The Headmaster sent proposal for approval. The approval was granted by Education Officer. The Education Officer submitted proposal of applicants to include their names in Shalant Pranali. Complaint was made by the opponents to Deputy Director, not to include their names in Shalant Pranali. The Education Officer conducted hearing and report was submitted. The approval for Shalant Pranali was granted by Deputy Education Director. A communication was issued by Education Officer to the Headmaster to comply the deficiency. The compliance was made by Headmaster and Shalant ID was received. The complainant filed writ petition not to include the names of applicants in Shalant Pranali. The said petition is pending. The entire matter relates to documents. The applicants have cooperated with the investigation. Their custodial interrogation is not necessary.

6. Learned A.P.P. submitted that the applicants represented themselves as Assistant Teacher, Senior Clerk, Junior Clerk and Peon. The applicants are involved in fabricating documents. False resolutions were prepared to show themselves as employees of the school. The learned Sessions Judge has rejected the application after considering evidence against the applicants. There is no document available on record of the school in support of appointment of the applicants made by Managing Body / Trustees. There is no document to show that the applicants have discharged their duties as members of teaching / non-teaching staff. The school administration have not sent proposals to the Education Department for approval of appointments of the applicants entering their names in Shalarth Pranali, etc. The offence is of serious nature. Custodial interrogation of the applicants is necessary. Smt.Prabhadevi Valvi was not validly entered in Schedule – I maintained with the office of Assistant Charity Commissioner, Nandurbar as the President of the Trust. The resolutions were under the signatures of Smt.Prabhadevi pretending to be the President of the Trust. The statements of witnesses recorded during the course of investigation indicate that none of the applicants were appointed as teaching / non-teaching staff of the school nor they have served in the said school as such staff members at any point of time. No resolutions were passed appointing applicants. The statements of current Headmaster and retired Headmaster were recorded and they have not supported claim of applicants. Proposals for approval were not sent from

school. The documents are fabricated. The applicant Nos.1 to 3 are sons of Late Abhimanyu Valvi. He was ex President of the trust. Their mother Prabhadevi was member on 26.12.2020. The applicants had forcibly inserted their signatures on Muster Roll. While filing election form applicant No.2 had stated his occupation as agricultural labour although he claims to be employee of the school. Proposal was not forwarded through Headmaster. Mr. D.G. Patil, the Headmaster at relevant time has stated that the supplementary salary bill of 2010 was produced by accused and his signature was forcibly taken on said document. Rs. 4,12,000/- were deposited into account of Headmaster D.G. Patil towards supplementary bill, when then transferred to the account of applicant No. 2. The proposals were fabricated documents. CR No. 883/2020 is registered against applicant No. 2 under Section 420 of the I.P.C. on 02.11.2020 for making false promise to complainant therein that he would be provided employment in school. It is suspected that the documents relating to educational qualification of applicants are false.

7. Learned Advocate for the complainant supported the submissions of the learned A.P.P. Affidavit in reply is filed opposing this application. In addition, he submitted that advertisement about the vacancies was to be given in the newspaper which is in wide circulation in the area, which was not done. The applicants were never employed by the Trust as teaching or non-teaching staff. The claim of the applicants is false. They have fabricated documents.

All the accused have acted in connivance with each other. Loss is caused to revenue of Government. The applicants have never worked in school. The witnesses from school have not supported the applicants' claim.

8. It is apparent that there are rival groups in Satpuda Adiwasi Lokseva Mandal, Rajmohi, Taluka Akkalkuwa, District Nandurbar, a registered Trust which conducts secondary school at Naupada. The groups have initiated proceedings under Section 22 of the Maharashtra Public Trust Act for entering their names as Managing / Governing / Executing Body of the Trust and the same has reached to the Court of District Judge, Shahada and this Court. Initial proceedings vide application No. 5/1989 were filed under Section 50 (A) (1) of the Maharashtra Public Trust Act. Misc. Application No. 10 of 1993, First Appeal No. 109 of 1998, Change Report No. 249 of 2012, 279 of 2012, Appeal Nos. 11 and 12 of 2014 before the Joint Charity Commissioner, Misc. Civil Application Nos. 11/2017, 12/2017 and 13/2017 before District Judge-1, Shahada were initiated. Misc. Civil Application No. 11/2017 was initiated at the instance of Shivaji Valvi against Sandip Valvi and others. Misc. Civil Application No. 12/2017 was initiated by Sandip Valvi and others against Shivaji Valvi, Kumudini Valvi and others. Misc. Civil Application No. 13/2017 was preferred by Kumudini Padavi @ Kumudini Rupsing Valvi against Shivaji Valvi and others. Kumudini Valvi is the complainant in the present case. She filed complaint bearing Regular Criminal Case No. 137/2013 in the Court of

Judicial Magistrate, First Class, Akkalkuwa for the offences punishable under Sections 447, 448, 469, 420 of the I.P.C. against Prabhadevi Valvi (mother of applicant Nos.1 to 3). Father of applicant Nos. 1 to 3 had filed complaint against complainant and others under Section 420, 468, 471 read with Section 34 of the I.P.C. on 15th July 1998 vide Crime No. 45/1998.

9. The learned Sessions Judge, while rejecting the application for anticipatory bail, had noted the submissions of the applicants that applicant No. 1 was appointed by the Management as a Shikshan Sevak vide appointment order dated 02.03.2011. Vide resolution dated 15.06.2014, the Managing Body resolved to appoint applicant No.1 as a trained Shishan Sevak and appointed him as on 21.06.2014. The Education Officer accorded approval on 10.12.2015. The office of the Deputy Director of Education, Nashik approved to enter the name of applicant No.1 on 23.12.2020 in Shalarth system in view of letter dated 22.01.2021 from the office of Education Officer to the Block Development Officer, Panchayat Samiti, Akkalkuwa. Since the inquiry was going on, applicant No.1 did not receive any salary or allowances. Applicant No. 2 claimed that, vide appointment order dated 09.06.2008 he was appointed as a Junior Clerk. He joined the duties on 14.06.2008. The Education Officer granted approval on 27.12.2010. On 05.06.2012, he was promoted as Senior Clerk. The Education Officer granted approval for promotional post. The Deputy Director, vide order dated 04.02.2021, approved to enter the name of applicant No.2 in

Shalarth System. Applicant No.3 claimed that on 01.06.2012 he was appointed as a Junior Clerk in the school and he joined duties on 18.06.2012. The Education Officer granted approval on 21.06.2012. Due to complaints, his name was not entered in Shalarth System. Applicant No. 4 claimed that he has been appointed as a Peon in the school at Navapada on 01.06.2012. He joined duties on 18.12.2012. On 21.06.2012 the Education Officer granted approval. Vide letter dated 12.02.2021 by Deputy Director, the Education Officer was directed to enter the name in Shalarth System. After taking note of this submissions, the learned Judge had observed that from the perusal of the contents of the application, it seems that the Education Department had entered the names of the applicants in Shalarth System. The applicants had obtained copies of documents relied by them from Education Department. However, the learned Sessions Judge has rejected the application on the grounds that Smt. Prabhadevi Valvi was not entered in Schedule-I maintained with the office of Charity Commissioner, Nandurbar as the President of the Trust. The resolutions are under her signatures. The witnesses do not support claim of applicants. In December 2020, the applicant No.1 has used criminal force and entered his name in Muster Roll.

10. I have perused the documents annexed to the application as well as investigation papers. There is rivalry between groups. Claim of applicants is that posts were advertised in the newspaper. The copy of newspaper with advertisement has been

annexed to this application. The applicants have placed on record marks list, appointment letters, joining reports and Proforma-B of new appointments. The said Proforma B appears to have been signed by D.G. Patil, Headmaster. The proposal was forwarded by Headmaster to the Education Officer for approval of appointment. The copies of proposals dated 11.08.2011, 19.11.2015 05.06.2012, 04.07.2012, 17.06.2012 are annexed to application. Education Officer issued approval to the post of applicant No.1 vide letter dated 23rd June 2021. The letter is signed by Education Officer. Subsequently the appointment is confirmed by letter dated 10.12.2015 issued by Education Officer. Approval was granted to applicant No.2 by letters dated 27.12.2010 and 29.07.2012. Approvals to applicant Nos.3 and 4 were granted by letters dated 29.06.2012 and 21.06.2012. Complaint was received, not to include names of applicants in Shalant Pranali. The Deputy Director by letter dated 14.08.2019 directed Education Officer (Secondary), Zilla Parishad, Nandurbar to conduct enquiry and submit report. Hearing was conducted and report was submitted to the Deputy Director of Education by the Education Officer, Zilla Parishad on 15th February 2021. The report mentions that, intimation about hearing was given to Headmaster G.P. Bagul, Dagdu Patil, G.H. Ware on 18.10.2019. Headmaster Subhash Hiralal Kadam in his written submission stated that Smt. Yamuna Valvi was appointed on 27.02.2012. She is working in school. Deepak Padvi was appointed on 01.02.2016. He is working in school. The said Headmaster did not support claim of

applicants. Applicant No. 2 submitted document relating to disbursement of salary for 2008 to 2010. He stated that the present President Shivaji Valvi, who was Vice President earlier, is not allowing them to sign, restraining them from entering school and threatening them. Complaint is filed with Police regarding missing of certain documents and school muster. The report referred to letter dated 17.12.2019 from Education Department. It is also stated that approval granted by Education Officer Shri G.N. Patil dated 13.12.2019 and 27.12.2019 is correct and names of applicant Nos.1, 3 and 4 can be included in Shalant Pranali. Reference is also made to letter dated 22.01.2020 regarding approval to applicant No. 1 issued by R.R. Marwadi as correct and name can be included in Shalant Pranali. I have perused letter dated 22.01.2020 issued by R.R. Marwadi stating that name of applicant Nos.1 and 2 can be included in Shalant Pranali and their approvals were correct. Shri G.H. Ware, retired Headmaster has stated in letter dated 31.10.2019 that during his tenure applicant No. 2 had executed bond and his name was recorded in Muster Roll. In the letter dated 27.12.2018 forwarded by Shri D.G. Patil to Education Officer (Secondary), it is stated that approval granted to applicant Nos. 1, 3 and 4 is correct and their names can be included in Shalant Pranali. Vide letter dated 14.08.2020, the Education Officer informed Headmaster about deficiencies in proposals for Shalant Pranali and directed compliance. Applicant Nos.1, 2 and 4 received Shalant ID.

11. The prosecution is relying on statements of witnesses as stated above. However, in view of documents referred to above and facts, the applicants need not be subjected to custodial interrogation. This application can be allowed. Hence, the order.

ORDER

- (A) In the event of arrest of the applicants in connection with Crime No.400/2021 registered with Police Station, Akkalkuwa, Dist. Nandurbar, 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.
- (B) The applicant shall appear before the Investigating Officer on 20th, 21st and 22nd October, 2021 between 11.00 a.m. and 1.00 p.m. and thereafter, as and when called for.
- (C) The applicants shall not tamper with the evidence.
- (D) The application is disposed of.

(PRAKASH D. NAIK, J.)