

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1126 OF 2021

Anilkumar s/o Bhutaji Wagh **...Applicant**

Versus

The State of Maharashtra **...Respondent**

...

AND

ANTICIPATORY BAIL APPLICATION NO. 1128 OF 2021

Dr. Laxman s/o Prataprao Deshmukh **...Applicant**

Versus

The State of Maharashtra **...Respondent**

...

AND

ANTICIPATORY BAIL APPLICATION NO. 1129 OF 2021

Shivraj s/o Bhagwan Manke (Patil) **...Applicant**

Versus

The State of Maharashtra **...Respondent**

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Advocates for the Applicants : Sr. Advocate Mr. V. D. Hon i/b.
Mr. A. V. Von (in ABA 1126/21).
Mr. A. D. Shinde (in ABA Nos. 1128/2021 and 1129/2021)

APP for the Respondent – State : Mr. A. V. Deshmukh

Advocate for the informant to assist PP : Mr. M. E. Deshmukh
and Mr. R. H. Mewara

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CORAM : PRAKASH D. NAIK, J.

DATE : 07th DECEMBER, 2021

PER COURT :-

1. The applicants in all these applications are seeking pre-arrest bail in Crime No. 347/2021 registered with Zilla Peth Police Station, District Jalgaon for the offences under Sections 120-B, 465, 467, 468, 420 read with Section 34 of the Indian Penal Code.

2. The First Information Report was lodged on 31st July, 2021. The complainant is the Chairman of Jalgaon Zilla Maratha Vidya Prasarak Sahakari Samaj Limited, Jalgaon. On 19th July 2021, while the complainant was sitting in office of institution he came to know that, Vice-Principal of Junior College Shri Anilkumar Wagh (applicant), 5 women, 2 male persons, teacher Prakash Patil, Shivraj Manke Patil had gathered after office work in the cabin of Vice-Principal. They were involved in preparing false muster. Complainant gave call to accused Anilkumar Wagh on his cell phone. He did not respond. Complainant Suhas Choudhari, Piyush Patil and Yash Choudhari proceeded towards cabin of Vice-Principal. All the aforesaid persons were present in the cabin. They were having calenders of last 4 to 5 years and involved in preparing

false muster by signing for the period of June 2017 to July 2021. Their discussion was overheard stating that as per instructions of Nilesh Bhoite and L.P. Deshmukh, they are preparing muster with signatures of four years for getting approval from Government for salary. On noticing visit of complainant, the accused stopped their conversation. Complainant and others entered into the cabin and they noticed that one person was signing muster roll, the inmates started running away. Their photographs were clicked. The complainant collected false muster roll. The complainant had approached the police on 19th July, 2021.

3. The applicants were represented by the respective counsels. Learned Senior Advocate Mr. A. V. Hon appeared for the applicant in ABA No. 1126/2021 and learned Advocate Mr. A. D. Shinde has appeared in ABA No. 1128/2021 and 1126/2021.

4. The submissions of learned counsels for the applicants is that the FIR is false. It has been registered on account of rivalry between two groups. The educational trust is running several schools and colleges. The aim of the trust is to impart education in rural areas of Jalgaon District. The affairs of the

trust are governed by provisions of Bombay Public Trust Act. Change report No. 1595 was pending with the learned Assistant Charity Commissioner, Jalgaon. The Honorary Secretary of educational institution filed Writ Petition No. 9210/2014 before this Honourable Court seeking directions to decide the change report expeditiously. The brother of the informant had intervened in the said petition. This Court passed order directing the Assistant Charity Commissioner to decide the change report within a period of nine months. The brother of informant had always tried to show that there is parallel management conducted by them. They have created confusion amongst the employees and other authorities in Education Department. Nilesh Bhoite was elected as Secretary of the trust. He had filed Writ Petition No. 2003/2020 stating that the informant had approached the Minister for setting aside the orders. The informant was restrained by the Joint Charity Commissioner from entering the premises of the office of educational institution. However, despite that the informant under the garb of order passed in Criminal Revision No. 7/2019 entered the premises. The informant and his supporters tried to enter the premises and caused damage to the property. C.R. No. 103/2021 was registered against the informant and his supporters with Zilla Peth Police Station, Jalgaon. The

Secretary filed Criminal Writ Petition No. 455/2021 seeking directions to grant police protection. The Superintendent of police was directed to consider and decide the application dated 26.03.2021 made by the Secretary for police protection. Since the direction was not complied, contempt petition was filed before the Court. Affidavit has been filed by the Superintendent of Police stating that protection has been provided. It is highly impossible that the informant would get an opportunity to enter the premises despite injunction orders and take away muster. Complaints were filed against the informant for theft of muster. The question of manipulating the record or the muster roll does not arise. The informant has stolen the original muster roll and it appears that it is in his custody for considerable period who might have carried out certain signatures on it. The muster was allegedly tampered on 19th July, 2021 and the FIR was lodged after a period of about 13 days. The employees are working with the institution and question of manipulating their signatures does not arise. The applicant Anilkumar Wagh has not attributed any active role in the FIR. He is working as Vice-Principal of college. Custodial interrogation is not necessary.

5. Dr. Laxman Prataprao Deshmukh is working as Principal

of college. He is serving in the college since more than 25 years. He is Principal of the college since last 10 years. Nutan Maratha College, Jalgaon is run by the educational institution. The career of the applicant Laxman Deshmukh is unblemished. Due to the political rivalry between two groups claiming management, the applicant is made to suffer. The informant claims is to be the director and incharge President of Educational Institution. The informant had no authority to claim himself to be the President. The applicant was not present at the spot. No role has been attributed to him. The validity about appointment or signing on the muster and its authenticity for grant of approval as well as release of grant of salary of the employees is looked after by the educational department. The custodial interrogation is not necessary.

6. Applicant Shivraj Manke (Patil) is working as a Lecturer of the college since last more than 11 years. The college is conducted by the Jalgaon Zilla Maratha Vidya Prasarak Sahakari Samaj Limited, Jalgaon. The entire matter relates to document, custodial interrogation is not necessary.

7. Learned APP submitted that the accused were involved in fabrication of muster roll. Intention was to cause loss to the

Government and the trust. The accused with the aid of other persons were signing the muster roll for the past period. The offences are serious, hence investigation is required. Muster roll in question was handed over to the accused. Custodial interrogation of the applicants is necessary.

8. Learned counsel for the complainant opposed the relief prayed in these applications. He has tendered written arguments on behalf of informant and also advance submissions. The applicants are supporting Secretary Nilesh Bhoite at whose instance they were fabricating the record. There was no reason for Principal to call muster roll and handed over it to Vice-Principal to facilitate signing of muster register. The names of the persons were left blank. The muster was found in custody of Vice-Principal. The statements of witnesses support the version of the complainant. The photographs were clicked while the accused were involved in tampering muster roll. The accused were signing the muster register for a period for which they were not employed and creating false record. Different muster registers are maintained. This shows that the motive of the accused to fabricate the documents to show the presence of the employees. The accused had hatched in conspiracy and

gathered in the cabin for creating the attendance with the use of muster roll. The accused are involved in forgery. The offence is of serious nature. Photographs of persons tampering with muster are clicked while they were fleeing from place of incident. Custodial interrogation is necessary. He relied on decision of Supreme Court in the case of ***State Vs. Anil Sharma AIR 1997 (SC) 3806.***

9. From the documents on record it appears that there is rivalry between two groups. It is alleged that the applicants with the help of other persons were involved in signing muster roll. The entire matter relates to document. Nothing is to be recovered from the applicants. Both sides have filed complaints against each other. Looking at the nature of the dispute the custodial interrogation is not warranted.

10. Hence, I pass the following order :

ORDER

(i) ABA No. 1126 of 2021, ABA No. 1128 of 2021 and ABA No. 1129 of 2021 are allowed.

(ii) In the event of arrest of the applicants in Crime No. 347/2021 registered with Zillapeth Police Station, District Jalgaon, 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 report the Investigating Officer on 15.12.2021, 16.12.2021 and 17.12.2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for, till filing of the charge-sheet.

(v) The Anticipatory Bail Applications stand disposed of.

(PRAKASH D. NAIK)
JUDGE

shp/-