

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

922 BAIL APPLICATION NO.1331 OF 2021

**PRABODH @ PRAMOD MADHUKAR RATHOD
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Patil Indrale Anand V.
APP for Respondents/State : Mr.V.M. Kagne
...

**CORAM : M.G. SEWLIKAR, J.
DATE : 4th December, 2021**

PC.:-

This is an application under Section 439 of the Cr.PC. for releasing the applicant on bail in connection with Crime No.326/2018 under Section 420, 120-B of the I.P.C.

2. Allegations in the FIR against the applicant are that the applicant was working as a Clerk in Zilla Parishad, Nanded. Posts of Junior Accountant were advertised in the year 2014. Pursuant to that, one Chhagan Dandge was selected and was appointed as Junior Accountant. Chhagan Dandge has scored 194 marks out of 200. Other candidates had scored 134 or less than 134 marks. Therefore, there was a wide gap of 60 marks between the marks obtained by Chhagan Dandge and the marks obtained by the other candidates. That aroused suspicion and therefore investigation was conducted. In the

investigation, it was revealed that the applicant had leaked the paper to Chhagan Dandge, owing to which the said Chhagan Dandge could score 194 marks. Applicant was arrested on 16.07.2021. Offence came to be registered on the FIR of PI-Salunke on the basis of which offence as aforesaid came to be registered against the applicant.

3. Heard learned counsel Shri Indrale Patil for the applicant and Shri Kagne learned APP for the State.

4. Shri Indrale Patil submits that in the earlier crime applicant was arrested and during interrogation it was revealed that applicant had committed similar crime. Therefore, this offence came to be registered. He submits that offence was registered in the year 2018 and applicant was not arrested till 2021. He submits that Tahsildar was equally involved in the commission of the alleged offence, but he has been let-off by the Investigating Officer for the reasons best known to him. He submits that statement of Additional Collector who was the Chairman of recruitment committee has been recorded and he has stated that question papers were properly sealed in an envelope and every care was taken so that those papers should not be leaked. He submits that statement of Chairman i.e. the Additional Collector clearly shows that paper was not leaked and Chhagan Dandge had scored marks on his own merit.

5. Learned APP opposed the application.

6. In the FIR itself it is mentioned that the said Chhagan Dandge was removed from service as he did not fulfill the qualifications prescribed for the said post. He had challenged his removal before this Court. This Court dismissed the writ petition. It is further alleged in the FIR that decision of this Court was challenged by Chhagan Dandge before the Hon'ble Apex Court. The Hon'ble Apex Court also dismissed the Special Leave Petition. So the position that emerges is that Chhagan Dandge is no more in service as he did not fulfill the qualification which were prescribed for the post of the Junior Accountant.

7. Learned APP Shri Kagne invited attention of this Court to the statement of Dinesh Runwal. Dinesh Runwal has stated in his statement that applicant had accepted Rupees Sixteen Lakhs and had leaked the paper to Chhagan Dandge. He has also stated in the statement that the person who had leaked the question paper to the applicant had instructed that applicant should intimate the candidate that he should not write answer of two questions. Accordingly, applicant asked Chhagan Dandge not to solve two questions. From the statement of Dinesh Runwal it is clear that there is *prima facie* case against the applicant. Learned counsel Shri Indrale Patil submits

that punishment for offence punishable under Section 420 is only seven years. However, considering gravity of the offence, I am not inclined to release the applicant on bail.

8. Learned counsel Shri Indrale Patil submits that Supreme Court released the applicant on bail in earlier crime as applicant was behind the bars for four years and the trial did not get concluded. He submits that applicant has been arrested to ensure that he remains behind the bars even after he is released by the Supreme Court in the earlier offence. This submission cannot be accepted. Role of the applicant in the alleged offence is revealed from the statement of witness Dinesh Runwal. In this view of the matter following order is passed:

ORDER

- I) Application is rejected.
- II) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]