

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

ANTICIPATORY BAIL APPLICATION NO. 1432 OF 2021

1. Marotrao s/o Nagorao Shinde, ... **Applicants**
Age 70 years, Occu: President
Aadarsh Vidyalaya, Manatha,
R/o Manatha, Tq. Hadgaon Dist. Nanded

2. Sandip s/o Marotrao Shinde
Age 33 years, Occu: Advocate &
Secretary, Aadarsh Vidyalaya, Manatha,
R/o Manatha, Tq. Hadgaon Dist. Nanded

VERSUS

The State of Maharashtra, ... **Respondent**
Through Police Inspector
Police Station Manatha,
Tq. Hadgaon, Dist. Nanded

Mr. S. S. Thombre, Advocate for the applicants,
Mr. A. V. Deshmukh, A.P.P. for the State,
Mr. Anand V. Patil (Indrale), Advocate assists to PP.

CORAM : PRAKASH D. NAIK, J.

DATE : 17th December, 2021

ORDER:

1. This is an application for anticipatory bail in Crime No. 140/2021, registered with Manatha Police Station Tq. Hadgaon, Dist. Nanded for the offences punishable under Sections 420, 467, 471 r/w 34 of the Indian Penal Code (for short "IPC").

2. The case of prosecution is that complainant is Ex-president of Shikshan Samiti, Manatha Tq. Hadgaon, Dist. Nanded. Aadarsh Vidyalaya Shikshan Samiti, Manatha, Tq. Hadgaon Dist. Nanded is a

registered Trust. The said Trust has a bank account with Maharashtra Rural Bank, Manatha Branch. It is alleged that dispute regarding change report and management over the trust is pending. Applicant No.1 filed application regarding change report vide Enquiry Application No. 578/2013 before the Assistant Charity Commissioner, Nanded. The said application was rejected. Applicant No.1 preferred appeal before the Joint Charity Commissioner, which was rejected on 19.09.2016. The said order was challenged before the District Judge, Nanded by preferring appeal which was rejected on 27.11.2018. The Administrator was appointed. No elections were held since 1997. The applicant No.1, in the capacity of President and applicant No.2 had withdrawn amount of Rs.5,07,240/- from Maharashtra Rural Bank, Manatha Branch. The applicants did not inform about withdrawal to the Body of the School and it was withdrawn without resolution. The accused had forged the signature and withdrawn the amount and cheated the Institute. Complaint was made to the Police Station but the offence was not registered. The complainant filed a private complaint in which directions were issued under section 156(3) of the Criminal Procedure Code. Thereafter, the First Information Report (for short "FIR") was lodged on 25.10.2021.

3. The applicants had preferred application for anticipatory bail before the Court of Additional Sessions Judge-1, Nanded. Said application was rejected.

4. Learned Advocate for the applicants submitted that the complainant had suppressed the material facts in the complaint filed before the Court of learned J.M.F.C. Writ Petition No 11297/2014 was filed by the applicants which was disposed of. The applicants were given right to carry out day to day affairs regarding administration of the education institute. Applicant No.1 is 70 years old person. Applicant No.2 is Advocate by profession. The applicant No. 2 is not concerned with the activities of the school. FIR has been lodged due to rivalry.

5. Learned APP submitted that applicants have committed serious offence. They have withdrawn Rs.5,07,240/- without authority. The said amount has to be recovered.

6. Learned Advocate for the complainant supported the submissions of learned APP. He is Ex-president of Shikshan Samiti, Manatha Tq. Hadgaon. It is submitted that accused had misappropriated the amount. The High Court had directed to appoint administrator on the school. Accused have withdrawn the amount without authority which has been misappropriated by them. Signatures were false. Police did not take cognizance of the complaint and hence private complaint was filed in which directions were issued under section 156(3) Cr.P.C. Applicant Nos. 1 and 2 are father and son. They acted in collusion with Incharge Headmaster of the School who is also son of applicant No.1. Thorough investigation is necessary.

7. It appears that there is dispute between two groups. The applicants had allegedly withdrawn the amount as stated above without authority. Learned Advocate for the applicants submitted that without prejudice to their defence and to show their bonafide, they are willing to deposit Rs.5,07, 240/- in this Court within a period of four weeks. The statement is accepted.

8. In view of the aforesaid circumstance, the applicants need not be subjected to custodial interrogation. Hence, anticipatory bail can be granted to them.

9. Hence, I pass the following order :-

ORDER

- i. Anticipatory Bail Application No. 1432 of 2021 is allowed;
- ii. In the event of arrest of the applicants in Crime No.140/2021 registered with Manatha Police Station, Taluka Hadgaon, District Nanded, 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 the Investigating Officer on 28.12.2021, 29.12.2021 and 30.12.2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for. They shall co-operate with the investigation.

- iv. The applicants shall deposit Rs. 5,07,240/- in this Court within a period of four weeks from today. In the event, the charge-sheet is filed, the amount be transferred to the trial Court and the said Court shall deal with the said amount in accordance with law.
- v. Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)

JPC