

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2988 OF 2021

A. JABBAR SAHEBLAL SHAIKH)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Viresh V. Purwant, Advocate for the Applicant.

Smt.Veera Shinde, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 21st DECEMBER 2021
PRONOUNCED ON : 22nd DECEMBER 2021**

P.C. :

1 The present application has been moved by the applicant under Section 438 of the Code of Criminal Procedure apprehending arrest under Section 409, 420, 467, 468, 471, 477A, 499, 500 of the Indian Penal Code (IPC) registered vide Crime No.419 of 2021 with Police Station Sadar Bazar, District Solapur.

2 According to learned counsel the applicant was appointed as an Assistant Teacher on 21st July 1988 and thereafter since 10th May 1991, he is working as Head Master in Shri Parmeshwar Ashram Shala, Kamati (K), Laman Tanda. The said school is run by Shri. Shiv Chaitanya Parmartik Seva Sangh, Parmeshwar Mandir, Taluka Mohol, District Solapur, a Trust registered under Bombay Public Trust Act.

3 The learned counsel next submits that after repeated failure of the informant before all authorities, he approached the Director, VJNT, OBC, SBC, Welfare Directorate, Government of Maharashtra, Pune. The learned Director was pleased to issue notice to all concerned. The applicant submitted his reply. The Assistant Commissioner, Social Welfare, Solapur, also submitted his report-cum-say to each and every issue raised in the said complaint. Though informant was also issued notice to appear along with all documents on 8th April 2019, he remained absent.

4 According to the learned counsel in the present First Information Report (FIR) the informant alleges that the applicant by making forged documents and affidavits etc. purported to be genuine documents received benefits and grants from the Department of Social Justice and Social Welfare of the State of Maharashtra every year from 2000. It is further alleged that he misappropriated the said amount of Rs.1 crore and also cheated the said Organization by receiving excessive illegal salaries from 2nd March 1998 till date.

5 According to learned counsel, before filing of the present FIR an earlier FIR bearing No.104 of 2012 dated 24th April 2012 was registered with Sadar Bazar Police Station by one Nagnath Nimbalkar, at the instance of informant. The said FIR was lodged against the applicant and four others who were Assistant Teachers. However, after thorough investigation and recording statements of witnesses, the then Investigating Officer was pleased to submit "C" Summary Report before the learned Judicial Magistrate First Class, Solapur. The learned Judicial

Magistrate First Class after hearing both sides was pleased to grant "C" Summary Report in FIR No.104 of 2012.

6 According to learned counsel now the FIR on the same grounds has been filed. There are vague allegations. Even otherwise, having regard to the nature of accusation, there is no necessity of custodial interrogation as the alleged offence is based on documentary evidence. The applicant, being Principal, therefore deserves to be given the benefit of pre-arrest bail.

7 Smt.Veera Shinde, learned APP, on the other hand, opposed the statement by contending that the applicant not only prepared fake teachers list but the division of classes in the school were fabricated just in order to secure the grant from the Government. There was misappropriation of public money. Having regard to the nature of accusation, custody of the applicant is necessary, argued learned APP.

8 Perused the investigation papers. I have gone through the earlier FIR No.104 of 2012 dated 24th April 2012 which was under Section 468, 471, 420, 34 of the IPC against the present applicant and four others. Similar accusations were made in the said FIR. It further appears that the said FIR was thoroughly investigated and thereafter "C" Summary Report came to be submitted before the learned Judicial Magistrate First Class, Solapur. The learned Judicial Magistrate First Class after hearing the concerned parties was pleased to issue "C" Summary Report. It is also clear from the record that the said order of the Magistrate was not challenged.

9 Now, again, more or less similar allegations are forming part of the FIR in question. Although the learned APP has filed compilation before me today, but the allegations made in the compilation date back to 5th June 2008 (Exh. A). Then there is order of Secretary, Social Justice Department holding that since Shri Shiv Chaitanya Paramartik Seva Sangh, Kamati, had fabricated the division of classes by issuing forged

appointment letters of teachers, he committed criminal breach of Trust in respect of government monies and therefore the recognition was cancelled. It may not be out of place to mention that findings were given by the Secretary, Social Justice Department on 26th March 2013. Similarly, there is order of Minister, Social Justice Department, dated 21st August 2009 giving the same findings. However, one cannot be oblivious of the fact that detail inquiry was carried out by Sadar Bazar Police Station vis-a-vis FIR No.104 of 2012 wherein allegations were more or less the same and “C” Summary came to be granted by the learned Judicial Magistrate First Class.

10 Assuming for the sake of argument that some irregularities have been done by said Sanstha, the same being of documentary nature, custodial interrogation of the Principal is not necessary. The applicant can be well directed to co-operate the Investigating Officer. Hence, I pass the following order :

ORDER

(i) The application is allowed.

- (ii) In the event of his arrest in Crime No.419 of 2021 for the offences punishable under Section 409, 420, 467, 468, 471, 477A, 499, 500 of the IPC registered with Police Station Sadar Bazar, District Solapur, applicant A. Jabbar Saheblal Shaikh be released on bail on executing P.R.Bond in sum of Rs.20,000/- with 1/2 surety in like amount.
- (iii) The applicant shall attend Police Station Sadar Bazar, District Solapur, as and when called by the Investigating Officer.
- (iv) The applicant shall not tamper the prosecution evidence.
- (v) The application stands disposed off accordingly.

(V. G. BISHT, J.)