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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1357 OF 2019

KAMTAPRASAD SHAHADUR CHAUHAN APPLICANTS
AND ORS

V/s.

THE STATE OF MAHARASHTRA RESPONDENT

Mr. Kalpanath H. Giri a/w Mr. Gaurav Borse for the applicants
Ms. Sharmila S. Kaushik APP for the State
Mr. Sangam Patil, P.S.I. Mumbra Police Station

CORAM : NITIN W. SAMBRE, J.
DATE: AUGUST 4, 2021.

P.C.:

1] Applicants are the trustees of Chauhan Education Trust, who were running an illegal Hindi and English primary medium school without permission from the competent authority (Education Department of State Government) from 1st to 8th standard are seeking pre-arrest bail in C.R. No. I-161 of 2018 registered with Mumbra Police Station on 28/03/2018 for offence punishable under Sections 420, 188 r/w 34 of the Indian Penal Code.

2] The submissions of learned counsel for the applicants Mr. Giri are, applicants are social workers and have retired from their respective employments and as such decided to impart education to the poor children from the society. According to him, Trust in question of which applicants are trustees have already approached the State Government seeking permission to open and manage the school which according to him, is a social activity (Non profit organization). He would further claim that applicants never promised to any of the pupils or their parents that the school is lawfully permitted to be administered, rather the nature of the activity carried out by the applicants through the Trust was only to give tuition i.e. by accepting meager tuition fees. Mr. Giri would invite my attention to the provisions of Section 18 of the Right of Children to Free and Compulsory Education Act (2009) [Hereinafter referred to as 'the Act' for the sake of brevity] so as to claim that in case if the management of the school by these applicants is without any legal permission, consequences thereof speaks of fine and not criminal prosecution. According to him, provisions of Section 18 of the said Act were never by the complainant/State Government against applicants.

3] Mr. Giri then would urge that applicants are very much available and have cooperated in the investigation by submitting their relevant record and that being so, their custodial interrogation is not warranted. As such, he prays that application be allowed.

4] Learned APP would oppose the claim on the ground that applicants have played with the future of the children by operating illegal school. Learned APP has invited serious misconducts/defaults by the applicants thereby pointing out that applicants are given notices from 2015, thereby directing them to close down illegal school run by them, however, applicants have shown complete disrespect to the Rule of law and continued to run the school illegally till 2021.

5] Considered submissions.

6] The fact remains that applicants are the trustees of Chauhan Education Trust who were managing the school in illegal manner thereby imparting education to students by accepting tuition fees and

other charges as is reflected in the account details produced on record. It appears that applicants have engaged the staff for carrying out duties in the illegal run school.

7] As far as the aforesaid act is concerned, this Court is sensitive to the pious work of imparting education, however, this Court cannot be oblivious to the fact that applicants managed and run a school without any permission from the competent authority i.e. Education Department. All of them continued to run unrecognized/illegal school thereby playing with future of the children. As a consequence the education and qualification gained by the students from the school run by the applicants (an illegal school) will not be recognized for pursuing further studies in a recognised school. As such, applicants recklessly played with the future of the children thereby managing an illegal school.

8] Though Mr. Giri has invited the attention of this Court to Section 18 of the Act, provisions of Section 18 of the said Act will be attracted only in case of recognized school, wherein recognition is withdrawn, whereas in case of the applicants, there was no

recognition and that being so, question of initiation of action under Section 18 of the said Act against the school managed by the applicants cannot be of any significance.

9] In spite of the fact that offence was registered in 2018, the fact remains that applicants continued to run such school, Hindi medium till 2019 and English medium till 2021, which speaks of complete disrespect to the Rule of law. The very act of the applicant to continue with running of the school by accepting so called tuition fees and playing with the future of the children cannot be dealt with lightly thereby granting protection in favour of the applicants.

10] Necessary ingredients of the Sections against which the offence is booked against the applicants can be very much inferred from the complaint.

11] That being so, no case for bail is made out.

[NITIN W. SAMBRE, J.]