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

ANTICIPATORY BAIL APPLICATION NO.2522 OF 2019

Pratap Chandrakant Deshmukh and anr. .. Applicants
VS.
The State of Maharashtra .. Respondent

Mr. Niranjan Mundargi I/b. Mr. Vaibhav R. Gaikwad for the Applicants.
Smt. M.R. Tidke, APP for the State.
Mr. S.K. Alique Ur Rehman i/b. M.M. Chaudhari for respondent No.2 (complainant)
Mr. Rajkumar P. Bhujbal, API, Shirval Police Station.

CORAM : M.S.KARNIK, J.

DATE : OCTOBER 25, 2021

P.C.:-

Heard learned counsel for the applicants.

2. The First Information Report (FIR) is dated July 1, 2019 by an Assistant Teacher. It is the case of the complainant that she was appointed in the year 2003 as an Assistant Teacher. In the FIR it is alleged that no salary has been paid to her since the day of her joining. It is further the case, that the applicant No.1 who is the President of the society which runs the school where the complainant is working as an Assistant Teacher, obtained a loan of Rs.2 lakhs in her name. The monies were utilised by the applicant no.1. The installment amount was deducted from the

salary of the complainant. Thereafter, it is alleged that in the year 2011, another loan of Rs.3 lakhs was taken in the name of the complainant. Even this time the installments are deducted from the salary of the complainant though the entire amounts are utilised by the applicant no.1. The applicant No.2 is the headmistress of the school where the complainant was working as an Assistant Teacher. It is further alleged that the entire salary to which the complainant is entitled to was utilised by the applicant No.1. The complainant therefore filed an application under Section 156 (3) of the Code of Criminal Procedure before learned Magistrate pursuant to which the FIR is registered on July 1, 2019 under Sections 420, 406, 467, 468, 471, 504, 506(2) of the Indian Penal Code.

3. It is the contention of learned counsel for the applicants that for certain misconducts the inquiry was initiated against the complainant. To inquire into the allegations a committee was constituted. The applicant No.1 agreed to be a part of the committee on September 18, 2018. The complainant filed the FIR under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('Atrocities Act' for short) on September 26, 2018. The applicant was granted pre-arrest bail in respect of the said offence registered under

Atrocities Act. It is the contention of learned counsel for the applicants that therefore the present FIR came to be filed.

4. It is the contention of learned counsel for the applicants that only because the complainant was annoyed with the disciplinary action taken against her that the criminal complaints are filed against the applicants. It is further pointed out that the complainant is terminated from the service, appeal against which the order is pending before the School Tribunal, Kolhapur.

5. The application is opposed by learned APP and learned counsel appearing on behalf of the respondent No.2 (complainant).

6. Having regard to the allegations made in the complaint, in as much as the same pertains to non payment of the salary from the year 2003 and that loan in her name was obtained as far back as in the year 2010 and 2011; considering that the FIR is registered only on July 1, 2019 after the disciplinary proceedings are instituted against the complainant, I am inclined to grant pre-arrest bail to the applicants as the custodial interrogation in the present case, in the light of the allegations made, is not necessary.

7. Learned counsel for the applicants, without prejudice to the rights and contentions of either of the parties in any of the pending proceedings, to show his bonafides, on instructions of the applicants, voluntarily submits that the applicant No.1 is willing to deposit a sum of Rs.5 lakhs before the School Tribunal, Kolhapur within a period of eight (8) weeks from today. Obviously, the said deposit will abide by the orders passed by the School Tribunal in the pending appeal.

8. Further, as the applicants have been granted interim protection since November 26, 2019, in my opinion, the custodial interrogation of the applicants is not necessary as they can be directed to co-operate with the investigation. Hence the following order.

ORDER

(I) The order dated November 26, 2019 granting interim protection to the applicants stands confirmed.

(II) In the event of arrest of the applicants in connection with C.R.No. 139 of 2019, registered with Shirwal Police Station, District - Satara, the applicants be released on bail on their executing P.R.Bond in the sum of Rs.25,000/- each, with one or two sureties in the like amount.

(III) The applicants shall co-operate with the investigation and appear before the investigating officer on 9th, 11th and 13th of November, 2021 between 10.00 a.m. to 12.00 noon and thereafter as and when called.

9. The application is disposed of.

(M.S. KARNIK, J.)