

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

APPLICATION FOR CANCELLATION OF BAIL NO.34 OF 2022

**MIRZA WAHID ALI MOHAMMAD ALI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr.Ajinkya Reddy, Advocate for the applicant.

Mr.B.V. Virdhe,APP for the respondent/State.

**CORAM : SMT. VIBHA KANKANWADI, J.
DATED : 29.03.2022**

PC :-

01. Present application has been filed under section 439 (2) of the Cr.P.C. by the original informant challenging grant of bail under section 438 of the Cr.P.C. in Criminal M.A. No.8 of 2022 by the learned Additional Sessions Judge, Udgir, Dist. Latur dated 27.01.2022, in connection with Crime No.342 of 2021 for the offences punishable under sections 420, 465, 467, 468, 471 read with section 34 of the Indian Penal Code.

02. Heard Mr. Ajinkya Reddy, learned Advocate for the applicant and Mr.B.V. Virdhe, learned APP for the respondent/State. It is not even necessary to issue notice to respondent No.2 because unless it is pointed out that use of discretionary power of this Court under section 439(2) of the Cr.P.C. is

essential in such case, then only there is question of hearing the accused, whose bail application has been granted.

03. The applicant-informant states that he is the Vice President of one Liberal Education Society, Udgir, since 2018. The said society runs several colleges and schools in Udgir area. The President, by name, Abdul Hafiz Shah Mohammad expired on 01.07.2020. According to the informant accused No.1 – Rajapatel Abdul Baki s/o. Mohd. Abdul Rab was serving as Assistant Teacher since 01.07.1990 in Jamhur Primary School, Udgir run by the society of which informant is the Vice President since 2018. According to the informant, on the basis of false and fabricated certificate that he has passed B.A. B.Ed., accused No.1 is serving as Head Master with the said school since 01.10.2018. Accused No.2 Anjum Fatima Khadari Abdulla is Secretary of the said society and she is allowing accused No.1 to conduct affairs as Head Master without verifying the certificate given by accused No.1. It has been alleged by the applicant that he made communication since 22.06.2021 to Alagappa University, Karaikudi, Tamil Nadu and found that said certificate of accused No.1 is fake and forged. The informant says that he has gone to lodge report to police and it was not taken and therefore he approached learned

Magistrate, Udgir for directing investigation under section 156(3) of the Cr.P.C. Accordingly, orders came to be passed and then the FIR vide Crime No.342 of 2021 appears to have been lodged with Udgir City Police Station, Dist. Latur for the offences as aforesaid.

04. Accused No.1 approached the learned Additional Sessions Judge, Udgir for grant of bail and it has been granted under section 438 of the Cr.P.C. with condition. Now that order has been challenged in this application. Perusal of the order passed by the learned Additional Sessions Judge would show that it is well reasoned order. At the outset from the contents of the FIR itself, it can be seen that when accused No.1 was given charge of Head Master on 01.10.2018, it appears that the applicant – informant was the Vice President of the Society. Then how he allowed him to take up that post is a question. If later on some thing went wrong in the society will not give him ground to file any report. Another fact to be noted is that accused No.1 is stated to be serving in the capacity as Assistant Teacher since 1990. This cannot be sidelined on the background that some document is stated to be forged one. Even the Education Department appears to have confirmed his appointment as Head Master. At that time also the informant had right to

take objection. Learned Additional Sessions Judge had also considered resolution dated 01.12.2018, which was placed on record showing that the informant himself was approver and Daimi Sayyed Khaled was the seconder for appointing applicant as Head Master in the school and they have signed the said resolution. Under such circumstance, it appears that in order to settle personal score, he has lodged the report. No such circumstance has been shown to cancel the well reasoned order.

05. The application stands rejected.

[SMT. VIBHA KANKANWADI, J.]