

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1613 OF 2021

SUHAS S/O SHARADCHANDRA PAGE
VERSUS
THE STATE OF MAHARASHTRA

...

WITH
ANTICIPATORY BAIL APPLICATION NO.1633 OF 2021

1. SANGEETA W/O PADMAKAR INGALE
2. SHALINI W/O SHRIKRUSHNA SAMBRE
VERSUS
THE STATE OF MAHARASHTRA

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Dr. R. J. Godbole, Advocate for applicants in both the cases.
Mr. A. M. Phule, APP for the respondent – State in both the cases.

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CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 04.01.2022

Pronounced on : 12.01.2022

ORDER :-

. All the applicants from both the applications apprehend their arrest in connection with Crime No.465 of 2021 registered with Mukundwadi Police Station, Dist. Aurangabad for the offences punishable under Sections 420, 464, 468 and 120-B of Indian Penal Code and, therefore, they have filed applications under Section 438 of the Code of Criminal Procedure.

2. Heard learned Advocate Dr. R. J. Godbole for the applicants in both the cases and learned Advocate Mr. A. M. Phule for the respondent – State in both the cases.

3. It has been vehemently submitted on behalf of the applicants that the informant, in fact, had given a complaint application to the Police Inspector, Mukundwadi Police Station on 08.09.2021 which was not only against the present applicants, however, against one Nitin M. Upasani, who was the Director of Education, Nashik Division, Nashik. However, it appears that when the police had not taken cognizance of his complaint, he filed private complaint in which he had conveniently deleted the name of said Nitin Upasani. He had then come with the statement that Nitin Upasani's signature has been forged by accused Nos.1 to 6. In fact, the informant claims to be the Secretary of one Prabodhan Bahuvidh Sanstha, Aurangabad. Accused No.1 is the President of that institution and since 2014-2015, the school run by the said institution receives 100% grant from the government. Accused Nos.2 and 3 are the members of the institution. Accused Nos.4 and 5 are stated to be the bogus teachers and accused No.4 is the relative of accused No.1. It was contended in the complaint application that Nitin Upasani, who was the then Education Officer, without any powers, had given sanction in favour of accused Nos.4 and 5, but then in his private

complaint, he says that the signature of Upasani is forged. In fact, whatever has been done by the institution was under the communication to the Government. No communication was received by the institution from the Government as to whether who is having power or who is not having any power. Even if those documents which were produced and relied by the complainant are seen, then Nitin Upasani was asked not to do certain administrative work, but that does not mean that his entire work was taken away. With the approval orders issued by the Government, the further act has been done by the institution and, therefore, it cannot be said that there was any kind of *mens rea* to cheat the Government on the part of applicants. The applicant in Anticipatory Bail Application No.1613 of 2021 retired on 30.06.2021 as a Superintendent of Pay Unit, Zilla Parishad, Beed. Without any orders, he could not have done anything. Further, the investigation can go on as the offence is depending on the documents which are already available with the police. The physical custody of the applicants in both the cases is not required for the purpose of investigation and, therefore, they deserve to be released on bail.

4. Per contra, the learned APP strongly opposes the application and submitted that the physical custody of the applicants is required. In fact, accused Nos.1 to 6 had prepared bogus appointment letters between

09.09.2014 to 13.11.2014 and then forged the signatures of Mr. Nitin Upasani. In fact, such communication ought to have been signed by Education Officer, Shri. Madhukar Deshmukh. With the help of that false documents, the Government has been cheated to the tune of crores of rupees. The accused No.6 i.e. Suhas Page had the knowledge that Nitin Upasani was not the Education Officer working from 05.03.2014 to 14.01.2015, yet he has sanctioned the salary bill as well as appointment letters of accused Nos.4 and 5. The Education Officer's office is not cooperating with the investigating officer and whichever information is called, is given in a distorted way. Possibility of tampering with the record cannot be ruled out and, therefore, the application deserves to be rejected.

5. At the outset, it is to be noted that the informant appears to have approached the Police Inspector, Mukundwadi Police Station by giving complaint application on 08.09.2021 thereby making allegations against Nitin Upasani also apart from the present applicants. Thereafter, he filed the application under Section 156(3) of the Code of Criminal Procedure in which he had suddenly come with the story that accused Nos.1 to 6 had forged the signatures of Mr. Nitin Upasani. The investigation papers do not show, though statement of Nitin Upasani appears to have been recorded, that sample of his signatures were taken

and the disputed documents are sent for handwriting expert's opinion. When the technical help can be taken for the investigation, the investigating officer appears to be believing in what the informant is saying that the said signature on the disputed documents is not of Mr. Nitin Upasani. There is communication dated 26.03.2014 in the police papers, which has been addressed by CEO, Zilla Parishad, Aurangabad to Nitin Upasani, who was the then Education Officer (Primary) stating that the administrative responsibility has been given to one Shri. M. K. Deshmukh, however, without any authority, Mr. Nitin Upasani is signing on certain files and taking decisions in respect of private schools and, therefore, order was passed that except visiting the schools and doing work under Sarv Shiksha Abhiyaan, the other administrative powers of Nitin Upasani have been taken back. Now, in spite of this document, it appears that the informant is giving clean chit to Nitin Upasani. This appears that he want to settle personal score with the other accused persons who are the office bearers of the institution. Another fact to be noted is that the offence is stated to have taken place during the period 09.09.2014 to 14.01.2015, yet the complaint application has been filed by the informant on 08.09.2021 though it has a reference of his earlier complaint application dated 15.08.2019. Even if we take that since 15.08.2019 he is making complaint, yet it is in

respect of the happenings those were committed from 05.03.2014 to 14.01.2015. The complainant informant claims himself to be the Secretary of the institution. Then why he had kept quiet for such a long period is also a question.

6. The alleged offence appears to be relating to the affairs of the institution and the investigation is depending on the documents which would be either available with the school/institution and corresponding documents with the Education Department. The physical custody of the applicants appear to be not required for the purpose of investigation taking into consideration the allegations. Therefore, the applicants deserve to be released on bail with conditions. Hence, the following order :-

ORDER

I) Both the applications stand allowed and disposed of.

II) In the event of arrest of applicant in ABA No.1613 of 2021 i.e. Suhas s/o Sharadchandra Page and applicants in ABA No.1633 of 2021 - (i) Sangeeta w/o Padmakar Ingale and (ii) Shalini w/o Shrikrushna Sambre, who have been arrested in connection with Crime No.465 of 2021 registered with Mukundwadi Police Station, Dist. Aurangabad for the offences punishable under Sections 420, 464, 468 and 120-B of Indian Penal Code, they be released on P. R. Bond of Rs.50,000/- with two solvent sureties of

Rs.25,000/- each.

III) The applicant in ABA No.1613 of 2021 shall attend the concerned police station on every Sunday between 10.00 a.m. to 2.00 p.m. till filing of charge-sheet.

IV) The applicants shall not tamper with the evidence of the prosecution in any manner.

V) They shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI, J.]

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