

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

ANTICIPATORY BAIL APPLICATION NO.136 OF 2022

Swati Shankar Kadam	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Viral Rathod, Advocate i/b. A.A. Sothe, Saima Sothe, for
the Applicant.

Smt. Rutuja Ambekar, APP for the Respondent-State.

Mr. R.V. Gupta, Advocate for the Intervener.

CORAM : SARANG V. KOTWAL, J.

DATE : 19th JANUARY, 2022
[Through Video Conferencing]

P.C. :

1. The applicant is seeking anticipatory bail in connection with C.R.No.1116/2021 dated 16.12.2021 registered at Kasturba Marg Police Station, Mumbai under Sections 465, 467, 468, 471, 477-A, 406, 420 of the Indian Penal Code.

2. Heard Shri Viral Rathod, learned counsel for the applicant, Smt. Rutuja Ambekar, learned APP for the State and Shri R.V. Gupta, learned counsel for the Intervener.

3. The FIR is lodged by a trustee of St. John's High School, Siddharth Nagar, Borivali (East), Mumbai. The applicant was working in that school since 2012 as a Clerk. The nature of her job was to prepare question papers based on the questions given by the teachers, fill-in salary registers of teachers, make entries in the computer regarding the fees taken from the students and issue receipts to them. There were seven clerks. The entries were checked every three months by the Head Clerk. In June, 2020 the the employees used to attend the school on alternate days. In November, 2020 the Head Clerk carried out his usual inspection. That time, he found some suspicious entries. He made further enquiries and he came to know that the applicant had committed serious fraud. She had not entered cheque numbers which were received by way of fees and in certain

cases the entries were cancelled. The cheque amount was to be deposited in Abhyudaya Co-operative Bank Ltd. in different accounts, but, those amounts were not deposited in those accounts. The Head Clerk had cautioned the applicant about the same. On 6.1.2021, the applicant's husband contacted the Head Clerk and accepted that the applicant had misappropriated the amount. He promised to return Rs.2 lakhs within ten days. The informant himself told the Head Clerk to concentrate on the entries made by the applicant. All those entries right from June, 2019 to August, 2021 were checked and it was revealed that the applicant had committed fraud to the tune of Rs.14,06,013/-. There were many entries which were not found. The school sent notice to the applicant. She accepted that she had committed fraud and had promised to return that amount. However, no amount was returned and, therefore, on this basis the FIR is lodged.

4. Learned counsel for the applicant submitted that the applicant is a lady. She is working in that school since

2012. Section 477-A of IPC is bailable and, therefore, the applicant should be granted anticipatory bail.

5. Learned APP opposed this application. She submitted that in the year 2017 also the applicant had committed similar offence for which she was given a memo and she had accepted that she would not repeat the same in future. However, inspite of the past history the applicant continued with her activity and she had misappropriated the big amount causing losses to the school.

6. I have considered the submissions. In the past also the applicant had committed similar offence for which she was reprimanded and was given a memo. The FIR shows that how the applicant has misappropriated the amount which is more than Rs.14 Lakhs. In the past also she was reprimanded and yet she continued with her activities. The school had shown sufficient leniency towards her. She was given sufficient chance to make the payment of misappropriated amount. However, inspite of that she did not pay the amount

which she had taken illegally. Therefore, the applicant does not deserve leniency. There is total non co-operation by her. The offence is serious. The applicant's custodial interrogation is necessary to find out the details of the offence and to find out the money which she had taken illegally. No case for grant of anticipatory bail is made out. The application is rejected.

PRADIPKUMAR
PRAKASHRAO
DESHMANE

Digitally signed by
PRADIPKUMAR
PRAKASHRAO DESHMANE
Date: 2022.01.21 16:04:00
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(SARANG V. KOTWAL, J.)

Deshmane (PS)