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Corrected as per order dated 11/10/2022

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

CRIMINAL BAIL APPLICATION NO.1070 OF 2022

Madhav Sheshrao Gitte ..Applicant
Versus
State of Maharashtra ..Respondent

**WITH
CRIMINAL BAIL APPLICATION NO.1071 OF 2022**

Ali Akhtar Abdul Ali Khan ..Applicant
Versus
State of Maharashtra ..Respondent

**WITH
CRIMINAL BAIL APPLICATION NO.1072 OF 2022**

Azad Lal Mahommad Khan ..Applicant
Versus
State of Maharashtra ..Respondent

**WITH
CRIMINAL BAIL APPLICATION NO.1069 OF 2022**

Uday Dattu Auti ..Applicant
Versus
State of Maharashtra ..Respondent

**WITH
CRIMINAL BAIL APPLICATION NO.2448 OF 2022**

Gopal Yuvraj Koli ..Applicant
Versus
State of Maharashtra ..Respondent

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Mr. Sudatta J. Patil a/w Vikramsingh Parmar, for the Applicant in all Applications.

Ms. P. N. Dabholkar, APP for the Respondent/State.

Mr. Narayan Shirgaonkar, ACP, Crime Branch, Pune – present.

CORAM : NITIN W. SAMBRE, J.

DATE : 15th SEPTEMBER, 2022

PC.

1. **Applicants in BA/1069/2022, BA/1070/2022 and BA/2248/2022 and in BA/1071/2022 and BA/1072/2022 are seeking regular bail in Crime No. 83 of 2021 registered with Wanawadi Police Station and in Crime No.54 of 2021 registered with Vishrantwadi Police Station respectively for the offence punishable under Sections 420, 406, 120B, r/w 34 of IPC, Sections 6 and 7 of Maharashtra Prevention of Malpractices At University, Board and Other Specified Examinations Act, 1982, Sections 7, 12, 13 of Prevention of Corruption Act and Section 66(c) of Information Technology Act.**

2. The attributions against the applicants in the prosecution story are, upon receiving secret inputs in relation to leakage of the question papers of written examination in relation to army recruitment, raid was carried out during which hand written examination papers, the printed PDF form on whatsapp of said question papers were recovered from the accused Kishor Mahadev Giri who was apprehended on 1st March, 2021. The said accused

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distributed the said question paper to various persons for illegal gratification. Applicant/Madhav Sheshrao Gitte is alleged to be companion of said Kishor Mahadev Giri through whose mobile the leaked question paper was put in further circulation. As far as the applicant in Bail Application No.1069 of 2022 - Mr. Uday Dattu Auti, another applicant - Gopal Yuvraj Koli, co-accused in Bail Application No.2448 of 2022 are shown to be accomplice of Madhav Sheshrao Gitte in the matter of leakage of examination paper. As far as applicants Ali Akhtar Abdul Ali Khan and Azad Lal Mahommad Khan who are applicants in Bail Application Nos.1071 of 2022 and 1072 of 2022, the allegations are that they have illegally sourced the question paper and circulated the same for considerations and were successfully trapped.

3. All these five accused after their apprehension were subjected to custodial interrogation and are charge-sheeted.

4. Apart from the claim that investigation against the applicants is already over, it is urged that other similarly accused persons, namely Thiru Murugan Thangvelu, Vasant Vijay Kilari, Veera Prasad Kotiswami Narnepati, Kishor Mahadev Giri and Mahindra Chandrabhan Sonawane are already released in other similarly placed crimes being Crime No.83 of 2021. It is also claimed that Mahindra Chandrabhan Sonawane who is similarly placed in crime i.e. Crime No.54 of 2021 is also released vide order dated 31st January, 2022 passed in Criminal Bail Application

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No.3305 of 2021. It appears that in relation to the leakage of question papers of army recruitment exam, two offences are registered viz. present one i.e. Crime No.54 of 2021 and Crime No.83 of 2021.

5. In the offence being Crime No.83 of 2021, accused persons Kishor Mahadev Giri, Vasant Vijay Kilari, Bharat Adakmol and Thiru Murugan Thangvelu are the main conspirators who are already ordered to be released by this Court. The same persons are the main accused in the present offence also. If this Court appreciates the provisions of Section 300 of the CrPC, what can be noticed is, second offence came to be registered which is contrary to the said provisions which provides for person once convicted or acquitted not to be tried for the same offence.

6. The fact remains that both these offences are arising out of the incident of question paper being leaked by the accused persons which was in relation to the army recruitment exam. As such, case of all these applicants, in my opinion, can be considered to be at par with the co-accused Mahindra Sonawane who was already ordered to be released so also other co-accused.

7. The co-accused Thiru Murugan Thangvelu and Vasant Vijay Kilari were the ex-servicemen. The applicants do not appear to be main source of the leaked question papers, as they have received it under circulation, however, illegally traded for the same.

Corrected as per order dated 11/10/2022

The investigation in the matter is already over, as each of them are charge-sheeted.

8. Apart from above, the incriminating material is already shown to have been seized in the offence. That being so, in my opinion, case for grant of bail in all these matters is made out.

9. Applicants are directed to be released on bail in **Crime No. 83 of 2021 registered with Wanawadi Police Station and in Crime No.54 of 2021 registered with Vishrantwadi Police Station respectively** on furnishing PR bond of Rs.25,000/- each with one or more sureties in the like amount.

10. Applicants shall attend the trial regularly as undertaken before this Court.

11. Applicants shall neither influence the witnesses in any manner nor tamper with the evidence.

12. The applications as such stand disposed of.

[NITIN W. SAMBRE, J.]