

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 962 OF 2021

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Devendra Ramchandra Patil and Anr. ..Applicants

V/s.

The State of Maharashtra ..Respondent

Mr. Sanjeev Kadam i/b Mr. Sagar Talekar for the Applicants.

Mr. S.R. Agarkar, APP for the Respondent/State.

Mr. Abhijeet Desai for the intervenor.

API Tukaram Rathod, Daund Police Station, Pune.

CORAM : C.V. BHADANG, J.

DATE : 21 MARCH 2022

P.C.

1. By this application, the Applicants apprehending arrest in Crime No. 133 of 2021 of Police Station Daund, District Pune under Section 341, 420, 447, 465, 467, 468, 469 of IPC are seeking anticipatory bail.

2. The aforesaid crime is registered on the basis of the complaint dated 12.03.2021 lodged by Jayanta Gopal Dhekane.

3. There appears to be a dispute amongst the members/trustees of *Naigaon Education Society* which is a Trust registered under the Bombay Public Trusts Act. The present FIR

appears to be the outcome of the said dispute. The complaint is lodged by Jayanta Dhekne, who was stated to be the Principal of the college run by the Trust. According to the informant, during the period from 01.06.2013 to 07.05.2014, the present Applicants had supplied certain articles including a computer server and 10 thin clients to Daund Taluka Arts and Commerce College worth Rs.1,74,510/-. According to the informant, the said articles were substandard/old articles. The Applicants thereby cheated the said college. It is also alleged that the Applicants have prepared forged and fabricated stamps and entered into correspondence with the Authorities claiming to be the office bearers/trustees of the said Trust.

4. I have heard the learned counsel for the parties. Perused record.

5. The record discloses that by an order dated 05.04.2021, this Court (Sarang V. Kotwal, J) had granted interim protection to the Applicants *inter alia* on the condition of attendance with the concerned police station. The learned APP did not dispute that the Applicants have reported to the Investigating Officer and have co-operated in the matter of investigation.

6. The learned counsel for the Applicants submitted that the allegation about the supply of substandard articles is for the

period from June 2013 to May 2014 and the FIR is lodged belatedly on 12.03.2021. It is submitted that the Applicants have been falsely implicated on account of the dispute amongst the Trustees of the said Trust. The learned counsel had pointed out the copy of the Schedule-III dated 18 January 2012 maintained by the office of the Charity Commissioner in order to submit that the Applicants are shown as the Chairman and the Secretary of the said Trust. He submitted that in any event, looking to the nature of the dispute and the fact that Applicants have co-operated with the investigation, the custodial interrogation is not required.

7. The learned counsel for the informant, strenuously urged that although the Applicants are not the Trustees/office bearers of the Trust, they are entering into correspondence with the Authorities and the Bank, claiming to be the Trustees. The learned counsel has pointed out the Judgment and Order dated 22.11.2016 passed by the Deputy Charity Commissioner, Mumbai in Change Report No. 1496 of 2012 in order to submit that while rejecting the Change Report, the persons named in Exhibit 1 were only directed to act as *de-facto* Managers. It is pointed out that the inspector of the office of the Charity Commissioner was directed to conduct elections and accordingly elections have been conducted and new body has assumed charge in the year 2018. The learned counsel pointed out certain

correspondence, subsequent to 2018 in which the Applicants continue to claim to be the Trustees of the said Trust.

8. I have considered the circumstances and the submissions made. I am afraid the *inter se* dispute between the parties as to their claim as trustees cannot be examined in the application under Section 438 of Cr.P.C., nor can be a matter of investigation under the offence as registered against the Applicants. Needless to mention that the informant and other trustees have their own remedies under the Bombay Public Trust Act, if so advised. The consideration in the present application has to be confined to the need for custodial interrogation in the context of the allegations made in the FIR. It can prima facie be seen that the only allegation in the FIR is that from June 2013 to May 2014 certain substandard articles were supplied by the Trust to the college worth Rs.1,74,510/-. The later part of the allegation in the FIR again pertains to fact that without holding any office, the Applicants were writing to the university and the Government Offices and the Banks claiming to be the Trustees.

9. As noticed earlier, this is a part which cannot be gone into in the application under Section 438 of Cr.P.C. It can be seen that there is substantial delay in lodging of the FIR for the alleged irregularities in June 2013 to May 2014 the FIR came to be

lodged in March 2021. I do not find that the custodial interrogation of the Applicants is warranted.

10. In the result, the criminal application is disposed of in terms of order dated 05.04.2021, which is hereby made absolute. The Applicants shall co-operate with the investigating agency and shall not tamper with the prosecution evidence/witnesses.

(C.V. BHADANG, J.)