

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

ANTICIPATORY BAIL APPLICATION NO. 1151 OF 2020

Pradip Sadashiv More	..Applicant
V/s.	
The State of Maharashtra	..Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO. 220 OF 2021**

Smt. Afroz Jahan Md. Usman	
Perampalli	..Applicant
V/s.	
The State of Maharashtra	..Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO. 746 OF 2021**

Ajarashirin Mohammed Hussain	
Dharashivkar	..Applicant
V/s.	
The State of Maharashtra	..Respondents

Mr. Manoj Mohite, Senior Counsel i/b Mr. Virendra Purwant for the Applicants in ABA/1151/2020.

Mr. Manoj Harit a/w Jigna Jain i/b Manoj Harit and Co. for the Applicant in ABA/220/2021.

Mr. Samir Vaidya a/w Vishal Bhogle for the Applicant in ABA/746/2021.

Mrs. M.R. Tidke, APP for the Respondent/State.

CORAM : C.V. BHADANG, J.

DATE : 22 MARCH 2022

P.C.

. All these applications, seeking anticipatory bail arise out of Crime No. 1548 of 2020 registered with Sadarbazar Police Station, District Solapur under Section 120-B, 409, 468, 471 of IPC. As such they are being disposed of by this common order.

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

3. The aforesaid crime is registered on the basis of the complaint dated 04.12.2020 lodged by Sanjaykumar Rathod, who was working as Education Officer (Primary) at Zilha Parishad, Solapur. The material allegation is that a total amount of Rs.65,37,171,- was sanctioned and disbursed by way of grant to two schools, in the District without the schools being entitled to receive the grant-in-aid.

The material allegation is that by such sanction and disbursement of the grant, the Public Exchequer has been cheated/defrauded of the said amount.

4. The Applicant Pradip More (ABA No. 1151/2020) was at the relevant time working as Education Officer, Zilha Parishad, Solapur. The Applicant Ajarashirin Dharashivkar (ABA No. 746/2021) was working as an Officer in Pay Department of Education Department (Primary) while the Applicant Afroz

Jahan Md. Usman Perampalli (ABA 220/2021) was working as Headmistress of Maharashtra Urdu Primary School Taluka North Solapur, District Solapur.

5. The learned Senior Counsel for the Applicant, Pradip More submitted that the Applicant has since retired as Education Officer. It is pointed out that the allegation is about forging of two orders of the Applicant both dated 21.04.2009. It is submitted that the FIR is lodged belatedly in December 2020 and the Applicant is not in possession of any official record since the Applicant has retired long back. It is pointed out that the evidence is in the form of documentary evidence which can be seized by the Investigating Officer if not already seized for which the custodial interrogation of the Applicant is not required.

6. The learned counsel for the Applicant Afroz Jahan submitted that concerned school was infact admitted to the grant-in-aid. However for want of required student strength, the school was shifted from Karad, District Satara to Solapur in the year 1996-97 and the said shifting of the school was approved by the Government by order dated 18.07.2001. The learned counsel pointed out the said order and particularly clause 9 thereof, which states that the school shall continue to have benefit of grant as per the Government Resolution dated 08.11.2000. He further pointed out that the demand raised by the Government against the school has been challenged in Writ Petition No. 5127

of 2016, which is pending before the Division Bench. It is pointed out that the Division Bench by order dated 25.11.2016 has granted protection inasmuch as it is directed that no coercive steps shall be taken in pursuance of the order dated 09.09.2016.

7. The learned counsel for the Applicant Ajarashirin Mohammed Hussain Dharashivkar has submitted that the Applicant was an employee of a lower rank and had no power to sanction or for disbursement of the grant and in any event, it is pointed out that the evidence being of a documentary nature, the custodial interrogation is not necessary.

8. The learned APP submitted that the matter requires investigation inasmuch as according to the FIR filed by the Education Officer, a substantial amount in excess of Rs.65 lakhs was disbursed to the concerned schools, without the said schools being entitled to receive the grant in aid.

9. I have carefully considered the rival circumstances and the submissions made. It can be seen that the gravamen of the allegations as per the FIR filed by the informant, is about the disbursement of grant of about Rs.65 lakhs and odd to two schools. Insofar as the Applicant Pradip More, he has long retired as an Educational Officer. This Court by a detailed order dated 06.01.2021 (ABA No. 1151/2020), 18.03.2021 (ABA No.746/2021) and 05.02.2021 (ABA No.220/2021) has granted

protection to the Applicants. It is pointed out that the Applicants have reported to the Investigating Officer and have co-operated in the investigation.

10. The learned Senior Counsel for the Applicant has pointed out a communication dated 13.04.2018 from Joint Secretary Maharashtra State in the Department of Education, to the Education Commissioner Maharashtra State Pune in order to submit that the Joint Secretary has found that it is not appropriate in the context of the allegations to initiate any criminal action against the Applicant Pradip More. Insofar as the Applicant Ajarashirin Mohammed Hussain Dharashivkar and Applicant Afroz Jahan, I find that the nature of allegations are such, in which the entire evidence, is bound to be of a documentary nature. All the Applicants are protected by interim orders which are operating for more than a year. In such circumstances, I do not find that custodial interrogation of the Applicants is warranted.

11. In such circumstances, the criminal applications are disposed of in terms of the interim order dated 06.01.2021 (ABA No.1151/2020), 18.03.2021 (ABA No.746/2021) and 05.02.2021 (ABA No.220/2021) subject to the condition that the Applicants shall continue to co-operate with the investigating agency, as when required and shall not tamper with the prosecution evidence/witnesses.

12. It is made clear that the observations herein are essentially of a prima facie nature and the learned Sessions Court shall not be influenced by the same at the trial.

(C.V. BHADANG, J.)