

Digitally
signed by
DIKSHA
DINESH
RANE
Date:
2023.01.24
19:58:47
+0530

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

BAIL APPLICATION NO.474/2022

VITTHAL MAGOBA @ MANGO GAWALI ..APPLICANT
VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Sunil U. Bhuyar a/w. Adv. C. B. Dharamdhikari for the
applicant.

Mr. S. V. Gavand, APP for State.

API B. H. Kaleade, Akkalkot South Police Station.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 23, 2023.

P.C. :

1. Heard learned counsel for the applicant and learned
APP for the State.

2. This is an application for bail in respect of the offence
punishable under Sections 420, 468, 471 read with 34 of the
Indian Penal Code (hereafter 'IPC' for short) read with
Sections 9 and 10 of the Maharashtra Unauthorized
Institution and Unauthorized Course of Study in Agricultural,
Animal and Fishery Sciences, Higher Technical and
Vocational Education (Prohibition) Act, 2013, registered vide
First Information Report (FIR) No.228/2018 with Akkalkot
South Police Station, District – Solapur.

3. The applicant is alleged to be the Principal of the fake university which was started by the accused no.1 as a founder. So far as the applicant is concerned, he is accused no.3.

4. So far as the accused-Aashish Sarjerao Dok is concerned, he has been released on bail by this Court vide an order dated April 1, 2021. The said order reads thus: -

“1 Heard learned senior counsel for the applicant and the learned A.P.P for the respondent-State.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 228 of 2018 registered with the Akkalkot-South Police Station, Solapur, for the alleged offences punishable under Sections 420, 468, 471 r/w 34 of the Indian Penal Code (‘IPC’) and under Sections 9 and 10 of the Maharashtra Unauthorized Institution and Unauthorized Course of Study in Agricultural, Animal and Fishery Sciences, Higher Technical and Vocational Education (Prohibition) Act, 2013 (‘Special Act’).

3 Learned senior counsel for the applicant submits that the applicant (original accused No. 2) is in custody since 11th January 2019 for more than 2 years and that the maximum sentence under the Special Act is 1 year and under the IPC, 7 years. He submits that the main co-accused-Annappa Isure is released on bail, not on merits, but under Section 167(2) of the Criminal Procedure Code (‘Cr.P.C’). He further submits that charge-sheet in the said

case was filed on 11th March 2019 and as such further detention of the applicant is not warranted.

4 According to the learned senior counsel, the applicant was one of the directors of a college, amongst many colleges i.e. Rashtriya Magasvargiya Krishi Vidyalaya, Mahiti Va Tantradnyan, Yelegaon, Taluka & District Buldhana. He submits that the applicant himself had made a complaint to the Minister, Higher Education, dated 30th June 2015 stating therein that several students had been cheated by Shri Isure, by starting colleges, without seeking requisite permissions.

5 Learned A.P.P opposes the bail application. Learned A.P.P has filed an affidavit of Shri Santosh Bapurao Gaikwad, Sub-Divisional Police Officer attached to Akkalkot Division, Solapur, for opposing the bail application. He submits that during investigation, it was revealed that the applicant was the Principal of Siddheshwar Prasad Bahuuddeshiya SevaSanstha, Solapur, and that he had published advertisements and issued pamphlets inviting students to take admissions in the said college. Hefurther submits that the applicant, apart from being the Principal of the said College, was also the founder and President of Rashtriya MagasvargiyaKrishi Vidyalaya, Mahiti Va Tantradnyan, Yelegaon, Taluka & DistrictBuldhana.

6 Perused the papers. The complaint is lodged by Dr. Harihar K.Kausadikar, Educational Director of Maharashtra Agricultural Education and Research Council with the Akkalkot-South Police Station, Solapur, stating therein that one Sambhaji Mhaske had filed a complaint application dated 12th September 2013 with the Office of the

Commissionerate of Agriculture, Maharashtra State, Pune, that one Annappa Isure (accused No. 1) had started fake Backward Class Open Agricultural University at Village Tadwal, Taluka Akkalkot, District Solapur and had prepared fake certificates, sanction letters, degrees and other certificates and used it. Similar complaints were also received from Buldhana regarding fake Agricultural University, pursuant to which, all the said complaints were forwarded to the Government of Maharashtra for inquiry through the complainant's institution. On inquiry, it was revealed that Annappa Isure (accused No.1) along with the applicant and other co-accused had established one Siddheshwar Prasad Bahuuddeshiya Seva Sanstha, Solapur, in connection with National Backward Class Open Agricultural University Information and Technology Institute, Tadwal, Taluka Akkalkot, District Solapur and other different colleges in connection/affiliation with aforesaid university, without obtaining sanction from the Government and that fake certificates, advertisements of the fake University were issued and huge fees were obtained from various students and fake certificates were issued to the said students. The aforesaid offence was alleged to have been committed from the period 2013 onwards. It is alleged that students/parents of 62 colleges in 14 Districts i.e. Solapur, Nashik, Ahmednagar, Pune, etc. were cheated. During the course of investigation, Annappa Isure was arrested on 7th July 2018. It is not in dispute that Annappa Isure was released on bail, not on merits, but under Section 167(2) Cr.P.C. The applicant was arrested on 11th January 2019 and since then has been in custody. It appears that the applicant was the Principal of

Siddheshwar Prasad Bahuuddeshiya Seva Sanstha, Solapur, from 2nd March 2010 and was also the director of the said college. It is not in dispute that charge-sheet has been filed in the said case on 11th March 2019. The applicant is in custody for more than 2 years. Whether or not, the applicant is involved in the commission of the offence and whether he had knowledge of the same, is a matter, which will be decided by the trial Court. The maximum sentence under the Special Act is 1 year and under the IPC, 7 years. The applicant is in custody for more than 2 years and charge-sheet has been filed in the said case.

7 Considering the aforesaid, further detention of the applicant is not warranted. Accordingly, application is allowed on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m, until further orders;
- (iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall not leave India, without the permission of the trial Court;
- (v) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile

details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(vi) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

9 The application is accordingly disposed of.

10 It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

11 All concerned to act on the authenticated copy of this order."

5. It is the contention of learned APP that the applicant was absconding. The applicant surrendered on November 24, 2021. It is obvious that the applicant surrendered after the co-accused Aashish Dok was released on bail on April 1, 2021.

6. Be that as it may, in the present case, the investigation is complete and the supplementary charge-

sheet has been filed against the present applicant. The role of the present applicant is similar to that of accused no.2- Aashish Dok who has been released on bail. Even the applicant was the Principal of one of the colleges. The applicant is in custody now for almost 1 year and 2 months. The applicant, therefore, can be released on bail on the ground of parity with co-accused Aashish Dok. Hence the following order.

ORDER

- (i) The applicant-Vitthal Magoba @ Mango Gawali be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m, until further orders;
- (iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall not leave India, without the permission of the trial Court;
- (v) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and

to the Investigating Officer of the concerned Police Station;

(vi) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7. The application is accordingly disposed of.

8. It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

(M. S. KARNIK, J.)