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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2698 OF 2022

Waman N. Suryawanshi
V/s.

...Applicant

The State of Maharashtra

...Respondent.

Mr. Amey Sawant i/b Mr. S.M. Sabrad for the Applicant.

Mr. A.A. Palkar, APP for the Respondent/State.

CORAM : N.R. BORKAR, J.

DATE : 23.01.2023.

P.C. :

1. This is an application under Section 438 of Code of Criminal Procedure for anticipatory bail.

2. The applicant is apprehending his arrest in Crime No.524 of 2022 registered at Malegaon Taluka Police Station, Dist Nashik for the offences punishable under Sections 409 and 420 read with 34 of the Indian Penal Code.

3. On 13 October 2022, this Court passed the common order in A.B.A Nos.2658 and 2698 of 2022, which reads thus :

"1. The applicants in both these applications are seeking pre-arrest bail in C.R. No.524 of 2022 registered with Taluka Police Station, Malegaon, Dist. Nashik for offences punishable under Sections 409 & 420 r/w Section 34 of Indian Penal Code (for short "IPC").

2. The case of the prosecution is that the complainant working as Incharge Block Education Officer, Panchyat Samiti, Malegaon lodged the complaint on 14.09.2022 alleging that, in the month of December - 2021 he received complaint of villagers of Sonaj seeking inquiry in respect of disbursement of amount of Golden Anniversary Scholarship of Zilla Parishad School, Sonaj, Tal. Malegaon, Dist. Nashik, which falls within his work jurisdiction. It is found that Smt.

Vimal Jibhau Suryawanshi, who is working as Head Master and Shri. Waman Namdeo Suryawanshi, Primary teacher misappropriated the amount of Rs.91,000/- during the period from 16-12-2020 to 31-12-2020 of Golden Anniversary Scholarship instead of paying the same to the students belonging to Scheduled Tribe category to their bank accounts directly, by transferring the same to the Bank account of Smt. Chandrabhaga Namdeo Suryawanshi and submitted the report with Chief Executive Officer, Zilla Parishad, Nashik through Block Development Officer, Panchayat Samiti, Malegaon, vide its letter dated 06.06.2022, directed the complainant to lodge the present complaint.

3. Learned Advocate Mr. Khairnar submitted that the applicant in ABA No.2658 of 2022 is handicapped women. No amount is credited to her account. There is no allegations that she has misappropriated any amount. He relied upon report of Block Development Officer and Block Education Officer, Panchayat Samiti, Malegaon dated 18.04.2022 which was addressed to the education officer stating that the applicant Smt. Vimal Jibhau Suryawanshi is handicapped women. There is negligence on her part. It was expected that the other teachers should have assisted her in view of her disability. The letter also indicate that she has not misappropriated any amount. The amount was transferred to the account of the mother of the applicant in Anticipatory Bail Application No.2698 of 2022.

4. Learned Advocate for the applicant in Anticipatory Bail Application No.2698 of 2022 submitted that the amount of Rs.91,000/- has been transferred to the account of the school. The police report stated that there is alleged misappropriation of Rs.67,581/- other than the amount of Rs.91,000/-. On instructions it is submitted that the applicant would deposit the amount of Rs.45,971/- to show bonafides without admitting the guilt within a period of one week from today. The said amount will be transferred in the bank account i.e. Bank of Baroda bearing No. 21550100017364, Adhyakshya Sachiv Shala Vyvasthapak, Sonaj. The statement is accepted.

5. The applicant Waman Namdev Suryawanshi is permitted to transfer the amount of Rs.45,971/- into the account of the school within a period of one week from today in the account as stated herein above.

6. Considering the fact that the applicant in Anticipatory Bail Application No.2658 of 2022 is apparently not held liable for misappropriation. Her application can be allowed.

ORDER

- i. Anticipatory Bail Application No.2658 of 2022 is allowed;*
- ii. Interim relief granted to the applicant in Anticipatory Bail Application No.2698 of 2022 is continued till the next date of hearing;*
- iii. The applicant Waman Namdev Suryawanshi is permitted to transfer the amount of Rs.45,971/- in Bank of Baroda bearing No. 21550100017364, Adhyakshya Sachiv Shala Vyvasthapak, Sonaj;*
- iv. In the event of arrest of the applicant Vimal Jibhau Suryawanshi in connection with C.R. No. 524 of 2022 registered with Taluka Police Station, Malegaon, she may be released on bail on furnishing P. R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;*
- v. The application qua the applicant in Anticipatory Bail Application No.2658 of 2022 is disposed off.*
- vi. For further hearing of Anticipatory Bail Application No.2698 of 2022, stand over to 16th November, 2022."*

4. By the above order, this Court has already granted anticipatory bail to co-accused, who at the relevant time was working as Head-Mistress of the school. The learned counsel for the applicant submits that pursuant to the above order, the applicant has deposited the amount of Rs.45,971/-. The learned APP has not disputed the said fact.

5. Considering the overall facts and circumstances of the case, I am inclined to release the applicant on anticipatory bail. In the result the following order is passed.

ORDER

- A) Anticipatory Bail Application is allowed.
- B) In the event of arrest of the applicant in C.R. No.524 of 2022 registered at Malegaon Taluka Police Station, Dist Nashik for the offences punishable under Sections 409 and 420 read with 34 of the Indian Penal Code, he be released on bail on executing P.R Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount.

[N.R.BORKAR, J.]