

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

**ANTICIPATORY BAIL APPLICATION NO. 2663 OF 2023
WITH
INTERIM APPLICATION NO. 3421 OF 2023**

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Nisha Sudhir Jagtap ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Aniket Nikam, a/w Aashish Satpute, i/b Amit Icham, for
the Applicant.

Mr. M. G. Patil, APP for the State/Respondent.

Mr. Sachin Gite, for the Intervener/Applicant in IA/3421/
2023.

CORAM: N. J. JAMADAR, J.

DATED: 25th SEPTEMBER, 2023

ORDER:-

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

2. This is an application for pre-arrest bail in connection
with CR No.321 of 2023, registered with Mumbai Naka Police
Station, Nashik, for the offence punishable under Section 408
read with Section 34 of Indian Penal Code, 1860 ("the Penal
Code").

3. The applicant is working as an office in-charge at Saint
Francis High School, Nashik. Co-accused Deepak Bangera is
working as an office assistant. The first informant is the Head

Mistress of the said school. All administrative and accounts work of the school has been entrusted to the applicant.

4. In the month of November, 2022 parents of few students approached the office with a grievance that despite having paid school fees, the school's system shows the fees unpaid. Upon verification of, "Neverskip Software" used by the school, it transpired that the receipts, upon payment of the fees by the parents, were initially generated and, later on, cancelled, during the period June, 2022 to November, 2022, in respect of 507 students aggregating to an amount of Rs.77,20,023/-. Upon being confronted the applicant acknowledged that she had siphoned off an amount of Rs.39,48,269/- and assured to deposit back the said amount by 15th March, 2023. However, on 15th March, 2023, the applicant forwarded her resignation. Hence, the Head Mistress lodged the report.

5. Mr. Nikam, the learned Counsel for the applicant, submitted that the offence punishable under Section 408 entails punishment which may extend to seven years. The applicant has allegedly committed misappropriation to the tune of Rs.39,48,269/-. The applicant is ready to deposit a sum of Rs.17,40,527/- in suitable installments. Since the

applicant is women, discretion be exercised in favour of the applicant.

6. The learned APP and Mr. Gite, the learned Counsel for the first informant, applicant in IA/3421/2023, resisted the prayers for pre-arrest bail. Mr. Gite invited the attention of the Court to an undertaking given by the applicant acknowledging the misappropriation of the amount and also the liability to pay the said amount. The learned APP submitted that the statements of the parents of the students indicate that the number of parents had paid cash to the applicant towards fees and the said amount has been misappropriated.

7. The nature of the allegations, if properly construed, make out a *prima facie* case for the offence under Section 409 of the Penal Code, which entails punishment which may extend to imprisonment for life. The material on record *prima facie* indicates that the applicant and the co-accused siphoned off the amount of fees by initially generating the receipts, handing over the receipts to the parents and, later on, cancelling those receipts. A huge amount of Rs.77,00,000/- has allegedly been siphoned off. There is further material to indicate that the applicant had indulged

in identical fraud in the year 2020 as well. The context of the accusation cannot be lost sight of. The applicant and the co-accused have siphoned off the fees entrusted by the unsuspecting parents.

8. Custodial interrogation of the applicant is warranted to unearth the fraud in all its facets and ascertain the money trail as well. It is not a case where discretion can be exercised in favour of the applicant without jeopardising the objective of fair and effective investigation and interest of the victims. An offer to pay part of the amount over an extended period of time, therefore, does not merit countenance.

9. Hence, the following order:

: O R D E R :

- (i) Application stands rejected.
- (ii) In view of disposal of the application, interim application does not survive and stands disposed.
- (iii) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

[N. J. JAMADAR, J.]