

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2844 OF 2023**

Usman Gani Abdul Qadir Attar and Anr. ... Applicants
versus
The State of Maharashtra ... Respondent

Mr. Tapan Thatte with Mr. Mohammad S. Mulla, for Applicants.
Smt. Ashwini A. Takalkar, APP for State.
Mr. Dineshkumar Patil, API Kondhwa Police Station present.

**CORAM: N.J.JAMADAR, J.
DATE : 12 OCTOBER 2023**

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No.886 of 2023 registered with Kondhwa Police Station for the offences punishable under Sections 406, 420, 465 and 468 read with Section 34 of the Indian Penal Code.
3. The first informant is the Assistant Education Officer, Pune Municipal Corporation. The First informant had visited Tims Takava Islamic Maktab and School in the month of August 2022. It was noticed that the applicants were running the said school sans recognition. The Applicant No.1, who was the director of the Institute, which runs the said school was instructed to submit documents showing the recognition. The first informant again visited the school in the month of May 2023. 158 students were found to be enrolled in first to seven standards. The applicants were charging fees of Rs.15,000/- per student per annum. As the applicants were

running the school sans any recognition, on 11 July 2023 in accordance with the provisions of Section 18(5) of the Right of Children to Free and Compulsory Education Act, 2009, the applicants were directed to pay the fine and close the school. Yet the applicants continued to run the school. As there is no recognition to the school and U-Dias number has not been allotted to the school, the said school does not find mention on the Saral Portal. Resultantly, the students enrolled in the said school are not eligible to get admission in other schools. Alleging that the applicants have deceived the parents of the students and the Government by running the school sans recognition, the first informant lodged the report.

4. The learned Counsel for the applicants submitted that, at best, the applicants can be alleged to have committed an offence punishable under Section 18(5) of the Right to Education Act, 2009. Since none of the parents of the children enrolled in the applicants' school have alleged that the applicants made a false representation that the school had the recognition, no prima face case of cheating under Section 420 of the IPC can be said to have been made out. Nor the applicants have prepared any false and forged document. Therefore, the applicants deserve the exercise of the discretion.

5. In opposition to this, the learned APP submitted that the applicants continued to brazenly run the school despite the order to stop the school. It was submitted that even after the registration of the FIR, the applicants continued to run

the school as late as 11th October 2023. The material collected during the course of investigation, according to the learned APP, indicates that the applicants have issued school leaving and other certificates which are invalid. The students enrolled in the school of the applicants are not eligible to get admission in the higher grades in other schools. Therefore, the submission on behalf of the applicants that none of the parents have made any grievance of deception cannot be accepted, submitted learned APP.

6. Indisputably, the applicants have been running the school sans recognition. An endeavour was made on behalf of the applicants to urge that their applications for recognition are pending. I am afraid, the said submission does not advance the cause of the applicants. Under the provisions of Section 18(1) of the Right to Education Act, 2009, no school can be started without recognition. The applicants have allegedly accepted the fees of Rs.15,000/- p.a. per student.

7. The submission of Mr. Thatte that none of the parents have made any complaints about the false representation having been made by the applicants, does not merit acceptance. Running a school is such an activity which the applicants could have carried out only with a lawful recognition. It is naive to believe that the parents would enroll their ward in a school after being informed that the school is not recognized.

8. During the course of investigation, it transpired that in the month of July

2023 itself, the applicants and the Head Master of the School were directed to close the school and pay the fine in accordance with the provisions contained in Section 18(5) of the Right to Education Act, 2009. Yet the applicants have been found to be running the school till yesterday, despite being fully aware of the fact that there is no recognition and action has been initiated against the applicants for running the school without recognition. The Court cannot be oblivious to the resultant injury to the children enrolled in the said school. In effect, the academic year of the children would be lost. The issue of the school leaving certificate and other certificates by the School run by the applicants appear to be clearly illegal and of no use for taking admission in other schools.

9. I am, therefore, impelled to hold that the matter warrants investigation and custodial interrogation of the applicants is necessary for effective and complete investigation. Grant of relief of pre-arrest bail would jeopardise the investigation. The application, therefore, deserves to be rejected.

10. Hence, the following order :

ORDER

- (i) The application stands rejected.
- (ii) It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

(N.J.JAMADAR, J.)