

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.219 OF 2023

Sarla Gopal Shingne

Vs.

State of Maharashtra Through Police Station Officer, Sakharkheda, District Buldhana

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. V. Sirpurkar, Advocate for applicant.
Mr. S. M. Ghodeswar, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/07/2023

1. The present application is for seeking anticipatory bail in connection with Crime No.89/2023 registered with Police Station Sakharkheda, District Buldhana for the offence punishable under Section 5 and 6 of the Maharashtra Prevention of Malpractices at University, Board and other Specified Examination Act, 1982 and Sections 120-B, 201, 409 and 420 of the Indian Penal Code.

2. The applicant is apprehending arrest at the hands of police at Sakharkheda, District Buldhana, police have registered the crime against the present applicant on an allegation that the complainant has received the information that the examination paper of Higher Secondary Course of Board Examination subject Mathematics was leaked and circulated on WhatsApp

group. He came to know about this information after watching the News Channel. Thereafter, total eight persons were arrested including the husband of the applicant. The present applicant was serving as a teacher in a private school run by her husband. As per the allegation against the present applicant, she was also involved in the leakage of the said paper and she solved the paper. On the basis of the said report, police have registered the crime against the present applicant.

3. As per the contention of the present applicant, she is not at all concerned with the alleged offence. Merely because she is serving in the school which is run by her husband, she is implicated falsely. Her physical custody is not required and hence, she be protected by granting anticipatory bail.

4. The said application is strongly opposed by the State on the ground that there are serious allegation against the present applicant as present applicant along with the co-accused conspired together to leak the 12th std examination question paper. The present applicant has solved the paper, the said paper was circulated in the WhatsApp group. The physical custody of the present applicant is required to recover the paper which was solved by her and therefore, prayer for grant of anticipatory bail is opposed.

5. Heard learned counsel Mr. Sirpurkar for the applicant. He submitted that the present applicant has already solved the paper and she is not in possession of the said paper. As far as the investigation purpose is concerned, she will cooperate with the investigating agency. Learned Counsel Mr. Sirpurkar submitted that to that effect the applicant has filed an affidavit. Thus, the paper which is to be recovered is not in the possession of the present applicant, therefore, her custody is not required.

6. Per contra, the learned APP submitted that paper is in custody of the applicant and therefore, her custody is required for the investigation purpose and hence, the application deserves to be rejected.

7. Heard both the sides. Perused the investigation papers. As far as the recitals of the FIR is concerned, only allegation is that the paper was leaked and solved paper is circulated on WhatsApp. During the investigation, the Investigating Officer has recorded the various statements. Only the statement of co-accused shows that it is the present applicant who has disclosed that the present applicant has solved the paper. The Board has already published the note that no such paper is leaked. The Investigating Officer has not recorded any statement of the Board Member to show that the paper was leaked. While releasing the co-accused on bail, this

Court has observed that the students are not benefited by the said leakage of the paper. The maximum punishment for the aforesaid offence is of one year. Considering the investigation carried out by the Investigating Officer, at this stage, except the statement of co-accused, nothing is on record to show the involvement of the present applicant with the alleged offence. In the light of the statement published by the Board, it reveals that there is no grievance by the Board regarding the leakage of the paper. Considering the aspect as discussed above, the application deserves to be allowed by confirming the ad-interim anticipatory bail which is granted to the present applicant, in the event of arrest. In view of that, I proceed to pass following order.

(i) The application is allowed.

(ii) In the event of arrest, in Crime No.89/2023 registered with Police Station Sakharkheda for the offence punishable under Sections 5 and 6 of the Maharashtra Prevention of Malpractices at University, Board and other specified Examinations Act, 1982 and Section 420, 120-B, 201 and 409 of the Indian Penal Code, the applicant **Sarla Gopal Shingne** be released on bail on furnishing PR bond in the sum of Rs.25,000/- with one surety in the like amount.

(iii) The applicant shall attend Police Station as and when required for investigation purpose and shall cooperate with the investigating agency.

(5)

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(iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any other witnesses who are connected with the alleged crime.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate