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**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE**

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 22nd OF JANUARY, 2024

MISC. CRIMINAL CASE No. 57712 of 2023

BETWEEN:-

**ANIL PATHAK S/O SHRI RAMDEEN PATHAK, AGED
ABOUT 45 YEARS, OCCUPATION: GOVT. SERVANT
GWALIOR ROAD, DABRA DISTRICT GWALIOR (M.P.)
(MADHYA PRADESH)**

.....APPLICANT

(SHRI D.P.SINGH, LEARNED COUNSEL FOR THE APPLICANT),

AND

**THE STATE OF MADHYA PRADESH INCHARGE POLICE
STATION THROUGH POLICE STATION BHITARWAR
DISTRICT GWALIOR M.P. (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI LOKENDRA SHRIVASTAVA, LEARNED PL),
.....

*This application coming on for HEARING this day, the court passed
the following:*

ORDER

This first bail application has been filed by the applicant under Section 438 of Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicant, who is apprehending his arrest in connection with Crime No.604 of 2023 registered at Police Station Bhitarwar District Gwalior (M.P.) for offences punishable under Sections 420, 467, 468, 471 of IPC.

As per the case of prosecution, Gaurishankar Rajput submitted a written complaint to SHO PS Bhitarwar that certain persons including applicant Anil Pathak have availed benefit of appointment on the post of Samvida Shikshak on

the basis of forged mark-sheet. An inquiry was conducted on complaint. It was found that forged mark-sheet of Diploma in Education (D.ed) was submitted by applicant Anil Pathak as he had never taken admission for academic year 2002-03. Further, the role number mentioned on the mark-sheet, organization code and centre number were not available. No such mark-sheet was issued by Madhyamik Shiksha Mandal in favour of Anil Pathak. On such allegations, PS Bhitwar registered FIR at Crime No.604 of 2023 for offence punishable U/s 420, 467, 468 and 471 of IPC against Anil Pathak and seven others. Statement of witnesses have been recorded. Relevant record has been seized. Investigation is underway.

Learned Counsel for the applicant, in addition to the grounds mentioned in the application, submits that as per the service record of applicant, he had never claimed that he had applied for diploma in education and he has not submitted any such mark-sheet. Learned counsel referring to Madhya Pradesh Panchayat Samvida Shala Shikshak (Employment and Conditions of Contract) Rules, 2005 submits that applicant was working as Samvida Shala Shikshak Grade II. For appointment on such post, only Bachelor of Education (B.ed) degree was sufficient. The applicant had submitted the degree of Bachelor of Education which is genuine and applicant was selected on the basis of B.ed certificate. Applicant is falsely implicated in this matter by RTI activist Gauri Shankar due to previous enmity. The applicant was working as teacher. No criminal antecedent is reported against him. The applicant will cooperate in the investigation, therefore, he may be extended benefit of anticipatory bail.

P e r c o n t r a, learned counsel for State opposes anticipatory bail application and submits that the complainant has submitted service record of applicant Anil Pathak under RTI Act duly verified by the Public Information

Officer of Janpad Panchayat, Bhiterwar, alongwith one mark-sheet of D.ed for academic year 2003 submitted by the applicant which was later found to have been forged as no such mark-sheet was issued by Madhyamik Shiksha Mandal. During investigation, the concerned department also provided copy of same mark-sheet from the service record of the applicant which shows that the applicant has submitted this forged mark-sheet to take benefit of appointment as Samvida Shala Shikshak Grade II. Learned counsel further submitted that the investigation is underway. The applicant has not been available to the investigation Officer since registration of FIR on 27.10.2023. There are seven other accused who had forged similar D.ed mark-sheets and secured benefit of appointment. The requirement of D.ed or B.ed mark-sheet for selection as per rules will be considered at the trial. At present, the fact remains that applicant had submitted forged mark-sheet. Therefore, the applicant may not be extended the benefit of anticipatory bail.

Heard. Considered.

The investigation is in primary stage. Applicant has *prima-facie*, taken illegal benefit of govt. job and earned the salary on basis of forged mark-sheet. He has not co-operated in investigation. Therefore, considering the rival contentions, this Court is not inclined to extend benefit of anticipatory bail to the applicant.

The application is therefore, rejected.

(SANJEEV S KALGAONKAR)
JUDGE

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