



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 121 OF 2024

SHAIKH RAFIQUE AHMED AND MASOOD AHMED AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. Atul M. Karad, Advocate for Applicants
Mrs. S. S. Joshi, APP for Respondents/State
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 19th MARCH, 2024

PER COURT :

1. Applicants apprehend arrest in C.R. No.04/2022, registered with Nanalpeth Police Station, Dist. Parbhani, for offence punishable under Sections 420, 468, 471, 499, 500 and 501 of the Indian Penal Code.

2. FIR is lodged by Rizwan Khan Jabbar Khan alleging that he was appointed as a Junior Clerk at Indira Gandhi Girls Education Society vide resolution dated 18/10/2011. He was appointed on permanent post and was on probation for a period of two years. After completion of his probation, when informant inquired with applicants about his proposal for confirmation of services, applicants conveyed that his proposal for approval of his services is pending with Education Department, Parbhani. Applicants also demanded Rs.15 lakhs from him for approval of his post. Informant was unable to pay the said amount as he has already parted with

Rs.8 lakhs. Informant has paid Rs.3 lakhs through bank and Rs.5 lakhs in cash to the applicants. Informant alleged that he has arranged said amount with great difficulty, by taking loan from his relatives and hence, he is unable to fulfill their demand. Informant made inquiry with Education Department about the approval of his post but he did not get any response. So, he applied under R.T.I. Act, for the documents of his approval and came to know that no such proposal was forwarded to Education Department. Informant further came to know that appointment letter issued to him was also forged. He realized that he was cheated by applicants and hence, he approached the police, but no action was initiated against them. Therefore, he filed application for directions under Section 156(3) of Cr.P.C. before learned Magistrate, which came to be rejected. He then challenged the order of learned Magistrate before learned Additional Sessions Court, and as per the directions of learned Additional Sessions Court, FIR was registered against applicants.

3. Heard learned advocate for applicants and learned APP for respondents/State. Perused the investigation papers.

4. It is the case of applicants that applicant No.1 is Executive President of Indira Gandhi Girls Education Committee, Parbhani, and applicant No.2 is Headmistress of Indira Gandhi Urdu Primary School, Parbhani, and she is working there since 2003. It is submitted that informant was terminated by order dated

13/12/2016. He challenged his termination before the School Tribunal, Latur and the Tribunal has dismissed his appeal by order dated 28/09/2021. Because of his termination applicants are falsely implicated in present crime.

5. Learned APP, on the other hand, opposed the application stating that under the directions of Revisional Court under Section 156(3) present crime is registered. The original proposal for approval of post of informant which was prepared by the Headmistress, is to be recovered, so also, the amount allegedly paid by informant to applicants in the year 2016. It is further stated that there is eye witness to the handing over of amount of Rs.5 lakhs to applicants by informant. She further submits that statements of informant's parents are recorded, according to which they had arranged the money which was paid by informant to applicants.

6. The statement of witness who has allegedly seen informant handing over cash amount of Rs.5 lakhs to both the applicants in the year 2011, is recorded on 08/01/2022. In his statement, he has also mentioned that, since there were no posts available and as he was not being paid salary, he has left services of applicants' institution in the year 2012. At this stage, *prima facie* said statement is not believable.

7. Considering the status of applicants and the history

behind lodging FIR, applicants need not be remanded to custody. Applicants have co-operated in the investigation and they have attended the police station. They have stated during their interrogation that informant himself has stolen the proposal and/or has fabricated it, for which private complaint bearing Criminal Misc. Application No.125/2017 was filed by applicant No.2 Headmistress against informant seeking direction under Section 156(3). However, the same is not accepted by the trial Court and the complaint is directed to be put up for verification.

8. *Prima facie*, there appears substance in the contention of applicants that due to termination of informant, which is confirmed by the School Tribunal, he has falsely implicated applicants in present crime. In that view of the matter, pre-trial custodial detention of applicants is not necessary.

9. Hence, the application is allowed by confirming interim protection granted to applicants by order dated 22/01/2024.

10. Till filing of charge-sheet, applicants shall attend concerned police station as and when called by investigating officer and shall co-operate in the investigation. Applicants shall not tamper prosecution evidence.

(NITIN B. SURYAWANSHI, J.)