



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

28 ANTICIPATORY BAIL APPLICATION NO. 669 OF 2024

1. Asif Ahmad Jainul Aabedin Ansari
2. Shakil Ahmed Shaikh Kasim
3. Yasmin Bona @ Bano Firoj Ahmad
4. Nadim Khan Gulsher Khan

..APPLICANTS

-VERSUS-

1. State of Maharashtra
2. The Superintendent of Police

..RESPONDENTS

...
Advocate for Applicant : Mr. Santosh Sampatrao Jadhavar.
APP for Respondent/State: Mr.S.A. Gaikwad

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CORAM : **SHIVKUMAR DIGE, J.**

DATE : 12th June, 2024.

P.C.:

1. The applicants apprehend arrest in connection with FIR No.152 of 2024 registered with Dhule City Police Station, Dhule, for the offence punishable under sections 465, 467, 468, 471, 472, 511, 420, 415, 417, 419 and 406 read with 34 and 120-B of the Indian Penal Code (For short, "IPC").
2. The complaint is filed by one Ansari Mukhtar Ahmad Noor Nabi alleging that Muslim Social Welfare Trust is registered trust and the said trust runs Alhera Urdu Primary School, Garib Navaj Nagar, Dhule. The said school is on Government grant list. It is alleged that the first informant is the Chairman of the said Trust and the applicant nos.1 to 3 are working illegally as teachers. Applicant no.4 is Headmaster of the said school. It is alleged that the applicants were terminated from the

services by the first informant on 10th December, 2013 and they were prohibited to enter in the school and the same was informed to the Education Officer. Though the applicants were terminated from the services, applicant no.4 pretended himself as Chairman in furtherance of common intention prepared forged documents by using forged seal and submitted the report to the Education Department to get salary and sought salary of December, 2013, January, 2013 and February, 2013 and thereby cheated the trust and Government.

3. It is the contention of the learned counsel for the applicants that the FIR was registered as per the order passed by the Judicial Magistrate, First Class, Dhule under section 156(3) of Criminal Procedure Code. Learned counsel further submitted that the dispute is going on between two factions of the trust. The change report in respect of the office bearers/trustees is pending before the Assistant Charity Commissioner, Dhule. Applicant nos.1 to 3 were terminated from the services on the same day without giving any notice and without making any inquiry. Thereafter their services were restored. The learned counsel further submitted that the applicant nos.1 to 3 are appointed as teachers in the years 1996 and 1997. They are permanent employees. Approvals are given to them by the concerned authority. They have not committed any crime as alleged. In the complaint lodged before the Judicial Magistrate, First Class no name of applicant no.4 was mentioned but in FIR the Police has

mentioned his name. The learned counsel further submitted that still the applicants are working in the same institution and drawing the salary. Custodial interrogation of the applicants is not required as they are permanent employees and offence is registered against them only due to dispute between two groups of the trust and to harass the applicants. Hence he requested to allow the application.

4. It is the contention of the learned APP that the applicants were terminated from the service on 10th December, 2013. The intimation was given to the Education Officer. The applicants were aware that they were terminated from the services. In spite of that they withdrew the salary and misappropriated the Government fund. There is prima facie case against the applicants. Their custodial interrogation is required. Hence he requested to reject the application.

5. I have heard both the learned counsel.

6. It appears from the record that the applicants are appointed as teachers in the said trust in the years 1996 and 1997. Since then applicant nos.1 to 4 are working in the said trust. Letter annexed with the papers of investigation dated 16th April, 2024 issued by the Superintendent, Charity Commissioner Office, Dhule shows that change reports are pending in their office regarding the said trust. In the said letter, it is mentioned that no comments can be made about board of trustees of the said trust. It appears from this letter that the change reports are pending from the year 1998. It is alleged that the

applicants have misappropriated the Government amount as they withdrew the salary when they were terminated. Salary is given to the applicants by the concerned authority. Had there been misappropriation of property, the offence should have been registered by the concerned Department. It appears that due to dispute between two groups the allegations are made against the applicants. Applicants are working as teachers in the said trust. The applicants have made out prima facie case. Custodial interrogation of the applicants is not required. Hence I pass the following order :-

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest of the applicants in connection with FIR No.152 of 2024 registered with Dhule City Police Station, Dhule, for the offence punishable under sections 465, 467, 468, 471, 472, 511, 420, 415, 417, 419 and 406 read with 34 and 120-B of the Indian Penal Code, the applicants be released on executing personal bond in the sum of Rs.15,000/- each with one surety of the like amount by each of them, on the following conditions :-
 - (a) the applicants shall attend the concerned police station as and when required by the Investigating Officer.

[SHIVKUMAR DIGE, J.]