



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

ANTICIPATORY BAIL APPLICATION NO. 1312 OF 2024

Iranna s/o Masnaji Kongalwar .. Applicant

versus

The State of Maharashtra & others .. Respondents

Mr. S. S. Gangakhedkar, Advocate for the Applicant.
Mr. A. G. Talhar, D.S.G. of India for Respondent No. 3.
Mr. P. K. Lakhotiya, APP for the State.

CORAM : R. M. JOSHI, J.

DATE : 23rd OCTOBER, 2024.S

ORDER :

1. Applicant apprehends arrest in connection with Crime No. 0272/2024 registered with Shivaji Nagar Police Station, Dist. Latur, for the offences punishable under Sections 120-B and 420 of Indian Penal Code and Sections 3(v), 4, 10 of the Public Examination (Prevention of Unfair Means) Act, 2024.

2. First Information Report indicates that a secret information was received by the informant who is a police personnel about racket being run for causing undue interference in the examinations by accepting money. Two suspects were called in the

office of Local Crime Branch. On 22.06.2024, they appeared before the police. They were asked to show their mobile phone. In their phone gallery, admission cards of various candidates were found. Similarly, there were WhatsApp chats with the said candidates. The said suspects are named as Jalil Khan Umarkhan Pathan and Sanjay Tukaram Jadhav. It is stated that on the basis of interrogation made with them, name of the present Applicant is surfaced.

3. Learned counsel for the Applicant submits that the Applicant has no nexus with the crime in question and on the basis of the charge-sheet filed in this case, it can be seen that there is no evidence to connect him with this crime. Reference is made to the statements of witnesses including statement of co-accused which, according to him, are not sufficient to show his involvement therein. It is submitted that the panchanamas are drawn by the investigating agency while seizing the mobile phone of the Applicant and as such apart from this nothing is to be recovered from him and hence liberty of the Applicant be protected.

4. Learned D.S.G.I. Mr. Talhar opposed the Application by contending that investigation into the crime has been made over to

CBI. According to him, evidence is found to indicate that mal-practices have been done in NEET. He submits that when notice was issued to the Applicant and he was called upon to cooperate in the investigation, he has submitted mobile phone of his daughter instead of his mobile phone. It is his contention that the same is revealed from the device information of the seized mobile. He drew attention of the Court to the correspondence made by the investigating agency for seeking CDR of the mobile phone of the Applicant. It is his submission that even if CDR is obtained, the same will not disclose the WhatsApp chat and for that purpose seizure of mobile instrument of the Applicant is essential and hence his custody is necessary.

5. There is no dispute about the fact that offence is serious in nature and it requires thorough investigation. The malpractices in connection to NEET are also apparent from record. This is not a case wherein the Applicant is totally alien to the crime or to the co-accused. During the course of hearing, it was revealed that the Applicant had contacted one of the co-accused allegedly in connection with the examination work of his own daughter. Thus, it is a case wherein there is some nexus between the Applicant and the

co-accused in connection with the examination in respect of which the offence is registered. Prima facie perusal of the record more particularly, the device information, clearly shows that the mobile phone which is seized does not belong to the Applicant and at the most it can be said that the said phone is used by his daughter. This Court finds force in the contention of learned counsel Mr. Talhar that this is an attempt made by the Applicant to misguide and sabotage the investigation. Thus, for recovery of mobile phone instrument of the Applicant and to find out his role in the crime, his custodial interrogation is necessary.

6. The factors required to be taken into consideration for grant of refusal of pre-arrest bail are seriousness of crime, need of investigation, custodial interrogation and recovery from the accused. On all counts, the case of the Applicant does not deserve consideration for grant of pre-arrest bail. In view of this, application is dismissed.

(R. M. JOSHI)
Judge