

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 951 OF 2024

SANTOSH
SUBHASH
KULKARNI

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1. Dr. Lavendra Surajmal Bothra
2. Alamury Venkateshwara Gupta ...Applicants

Versus

State of Maharashtra ...Respondent

WITH

INTERIM APPLICATION NO. 1707 OF 2024

Mr. Manoj Mohite, Senior Advocate, i/b Anusha Pradhan –
Jaibhave, for the Applicants.

Ms. Trupti Chavan, for the Intervener.

Ms. Mahalaxmi Ganapathy, APP for the State.

PSI M. T. Jadhav, Shahapur Police Station, Thane Rural
present.

CORAM: N. J. JAMADAR, J.
DATED: 24th JUNE, 2024

PC:-

1. Heard the learned Counsel for the applicants and the
learned APP for the State.

2. This is an application for pre-arrest bail in connection
with CR No.405 of 2023, registered with Shahapur Police
Station, Thane Rural, for the offences punishable under
Sections 409, 420, 465, 467, 468 and 471 read with Section
34 of Indian Penal Code, 1860 (“the Penal Code”).

3. The first informant, who is posted as the Assistant
Project Officer in Integrated Tribal Development Project,

Shahapur, has lodged report with the allegations that pursuant to a complaint lodged by Ramchandra Parshuram Yadav, the intervener herein, against the Trustees of Kothi Vidya Charitable Trust, which runs Alamuri Ratnamala Institute of Engineering and Technology, about the alleged fraud in the administration and financial affairs of the said Trust and Institute, an enquiry was conducted. The said enquiry revealed that the Trust and the Institute had collected fees from the students more than the fees determined by Fee Regulatory Authority and, thereby, the students and the Government were deceived.

4. Applicant No.1 is the Principal of Alamuri Ratnamala Institute of Engineering and Technology, Sabgaon, Taluka Shahapur. Applicant No.2 is the Director of Kothi Vidya Charitable Trust, which runs Alamuri Ratnamala Institute of Engineering and Technology.

5. The gravamen of indictment against the applicants and other Directors of the Trust is that they have shown inflated expenditure while submitting proposal before the Fee Regulatory Authority and on the basis of the determination of the fees by the Fee Regulatory Authority, on a higher side, the applicant and the co-accused have defrauded the students as

well as Tribal Development Department, which bears the fees of the students, who are covered by the schemes implemented by the Tribal Development Department.

6. By an order dated 12th April, 2024, this Court was persuaded to grant interim bail to the applicants observing, *inter alia*, as under:

“5. Mr. Mohite, learned Senior Advocate for the Applicants, submitted that the prosecution has been initiated at the behest of Ramchandra Parshuram Yadav, ex-employee of the College who has lodged a number of complaints with various authorities against the college and Trust and all those complaints and grievances have been dealt with by the respective authorities. In the instant FIR, which is lodged on the basis of a report of inquiry purportedly conducted by Tribal Development Department, it is alleged that those inquiries were not properly conducted. The applicants have deep roots in society. The arrest of the applicants would cause incalculable harm to their standing in the Society.

6. Learned APP resisted the prayer for bail. It was submitted that there is material to indicate that the applicants had submitted false documents to inflate expenditure and thereby obtained determination of the fees on the higher side. It was submitted that the employees who had already resigned from the college were shown to be still serving in the college and, on that basis, the claim for higher fees was made before the Fee Regulatory Authority.

7. I have perused the allegations in the FIR. In paragraph No.4 (page 39) it is, *inter alia*, alleged that various Enquiry Committees which had conducted enquiries had not properly enquired into the allegations against the Trust and the College and, therefore, the fraud could not be unearthed. Thus, the conduct of the persons who conducted those enquiries be also inquired into. This implies that a number of enquiries have already been conducted by the competent authorities. *Prima facie*, it appears that omnibus allegations have been made with a view to reopen the issues which have been concluded by the enquiries conducted by the competent authorities.

8. In any event, the offences revolve around documents. The applicants appear to have firm roots in society. In the circumstances, till the matter is heard after providing an efficacious opportunity to the prosecution and the Intervener, I deem it appropriate to protect the liberty of the applicants.”

7. Mr. Mohite, the learned Senior Advocate for the applicants, submitted that pursuant to the directions of this Court, the applicants have appeared before the Investigating Officer and submitted voluminous record. Mr. Mohite reiterated that the FIR has been registered at the instance of the intervener, Mr. Ramchandra Yadav, an ex-employee of the college, who has been lodging complaints with various authorities to wreak vengeance. It was submitted that the allegations have been enquired into by the various authorities, and nothing incriminating has been found against the Trust and the Trustees including the applicants. Since the applicants have cooperated with the investigation, the order of interim bail deserves to be made absolute, submitted Mr. Mohite.

8. The learned APP, on instructions, submitted that the applicants have appeared before the Investigating Officer and submitted the documents. The learned APP, however, submitted that the custodial interrogation of the applicants is

warranted as it is alleged that some of the documents have been forged.

9. The learned Counsel for the Intervener also resisted the prayer for pre-arrest bail. An endeavour was made to take the Court through the documents which have been relied upon by the intervener in support of the allegations that the office bearers of the Trust and the persons in-charge of the Alamuri Ratnamala Institute of Engineering and Technology have indulged in various acts of malfeasance and misfeasance.

10. From the perusal of the allegations in the FIR, it becomes evident that a number of enquiries have been conducted by various authorities like Council of Technical Education, Directorate of Technical Education, Mumbai University, Maharashtra State Technical Education Board and even Fee Regulatory Authority. In the FIR it is alleged that those authorities have not properly conducted the enquiries and suppressed the truth. Therefore, the members of those enquiry committees as well as the officers, who represented those authorities be also subjected to further enquiries.

11. Evidently, the gravamen of indictment is that the applicants had inflated the expenditure and got the fees determined by the Fee Regulatory Authority on a higher side. The Minutes of Meeting of the Fee Regulatory Authority held on 8th April, 2022 indicate that the said Authority had considered the complaint made by the ex-employees of the Trust and the enquiries conducted by the Committees appointed by the Directorate of Technical Education. It was noted that the complaints made by the various complainants were not maintainable before the Fee Regulatory Authority.

12. *Prima facie* it appears that omnibus allegations have been made covering a wide spectrum of the affairs of the colleges run by the Trust. Issues which have been concluded by the concerned authorities are sought to be re-opened. The allegations in the FIR deserve to be appreciated in the backdrop of the aforesaid attendant circumstances.

13. The applicants appear to have firm roots in the society. Arrest of the applicants, in this backdrop, has the potential to cause incalculable harm to the applicants. Conversely, the offences revolve around documents. Since the applicants have produced documents before the investigating agency and have also appeared before the Investigating Officer, the

arrest of the applicants does not seem warranted for an effective investigation.

14. For the forgoing and also the reasons, which weighed with this Court in granting interim bail, I am inclined to make the order of interim bail absolute.

15. Hence, the following order:

: O R D E R :

- (i) Order of interim bail dated 9th May, 2024 is made absolute on the terms and conditions incorporated therein.
- (ii) In addition, the applicants shall henceforth appear before the Investigating Officer as and when directed.
- (iii) The applicants shall regularly attend the proceedings before the jurisdictional court.

Application stands disposed.

In view of disposal of ABA/951/2024, IA/1707/2024 also stands disposed.

[N. J. JAMADAR, J.]