



(1)

12 & 13.aba.343 & 344.2023

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.343 OF 2023

Sudhir s/o Suresh Sahu

Vs.

State of Maharashtra, Through Police Station Officer, Murtizapur, District Akola

AND

CRIMINAL APPLICATION (ABA) NO.344 OF 2023

Suresh s/o Rajdev Sahu

Vs.

State of Maharashtra, Through Police Station Officer, Murtizapur, District Akola

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. M. V. Rai, Advocate for applicants.
Ms. T. H. Udeshi, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 30/01/2024

1. Both these applications are filed by the applicants for grant of pre-arrest bail in connection with Crime No.15/2023 registered with Police Station, Murtizapur, District Akola for the offences punishable under Section 10(1), 10(2), 10(3) and 11(2) of the Maharashtra Scheduled Caste, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance of Verification of) Caste Certificate Act, 2000 (hereinafter referred as to 'The Act 2000').

2. The accusation against the present applicants is on the basis of report lodged by one Shivdatta Zanze, who is the Dean of the Terna Medical College and Hospital, Nerul, New Mumbai on an allegation that in the Academic Session of 2013-14 the applicant namely Sudhir Suresh Sahu, who was aged about 20 years approached to Terna Medical College for the admission in M.B.B.S. for the reserved seat in Scheduled Tribe. The another applicant in Criminal Application (ABA) No.344/2023 Suresh Rajdev Sahu is the father. As per the allegation, at the relevant time of verifying the documents the original copy of the caste certificate and caste validity certificate was not with the applicants, therefore, admission was denied. The applicants approached to this Court and filed a Writ Petition No.7944/2013 against the Medical College and also against the Caste Scrutiny Committee, Amravat, and this Court at Principal Bench by order dated 30.08.2013 granted interim relief to the applicant Sudhir Sahu directing the college to grant the admission temporarily till further orders of this Court and accordingly, the applicant was admitted in M.B.B.S. Degree Course in Terna College. At the time of admission, the applicant had submitted the photocopy of caste certificate, wherein it was mentioned that he belongs to the 'Halba' under Scheduled Tribe. The Caste Scrutiny Committee vide order dated 05.04.2017 was pleased to invalidate the claim of the applicant Sudhir Sahu and cancelled the

caste certificate by order dated 12.09.2012 issued by the applicant Sudhir Sahu by the learned SDO, Murtizapur and therefore, the Management of Terna Medical College had cancelled the admission of the applicant on 06.05.2017. The applicant Sudhir Sahu has challenged the said order before this Court by filing Writ Petition No.6533/2017 and this Court has also observed that the petitioner had prepared a false caste certificate and thereafter, directed the State to register the offence against the applicant. Accordingly, the informant, who is the Dean of the Medical College has lodged report, so as to register the offence against the applicant and accordingly, the crime is registered.

3. Learned Counsel Mr. Rai for the applicants submitted that the report is not lodged by the authorized person in view of Section 11 of the Act 2000. The Scrutiny Committee is only the authorized person to lodge the report. Therefore, the report itself lodged by the Principal, who has no *locus standi* to lodge the report. He further submitted that now, caste certificate is already produced and custodial interrogation is not required.

4. In support of his contention he placed reliance on **Vilas s/o. Rambhau Majrikar Vs. State of Maharashtra** reported in **2015 All MR (Cri.) 4025** and **Criminal Writ**

Petition No.104/2017 (Ms. Safa Khwaja Shaikh Vs. The State of Maharashtra) decided 05.08.2019.

5. Per contra, learned APP strongly opposed the application on the ground that the Dean was also party before Scrutiny Committee as well as before this Court. The Scrutiny Committee has while invalidating the claim directed the Principal, Terna Medical College and Hospital to take action against the applicant in view of Section 10(1)(2)(3) and 11(1)(2) of Maharashtra Scheduled Castes and Scheduled Tribes, V.J., NT's Other Backward Classes and S.B. categories (regulation of issuance and verification of) Caste certificate, Act 2000 (Maharashtra Act No.XXIIIrd of 2001) as he has secured admission under the reserved seat meant for Scheduled Tribe.

6. Learned APP further submitted that since the applicant namely, Sudhir Suresh Sahu has filed this false certificate and sought the admission on the basis of said certificate which deprived the genuine candidate from taking admission and also deprived from getting the degree of M.B.B.S. The act of the applicant Sudhir Sahu itself is a serious in nature and such type of persons cannot be protected by granting anticipatory bail.

7. Having heard the learned Counsel for the applicants and learned APP for the State. Perused the

investigation papers, it reveals that the applicant in Criminal Application No.343/2023 approached to the Terna Medical College for seeking admission for the M.B.B.S. Course. The seat which was allotted to the present applicant was reserved for the Scheduled Tribe. The applicant claims to be 'Halba' Community and produced the certificate which subsequently found to be forged certificate. The claim of the present applicant Sudhir Sahu was sent for the validation and the Scrutiny Committee found that the certificate on which admission is sought is a forged certificate and invalidate the claim. Though, the applicant has challenged the said order before this Court by preferring the writ petition, but the said writ petition is also dismissed by the Court by observing that the certificate sought is a forged certificate obtained by the present applicants. It further reveals that on the basis of said certificate, the applicant Sudhir Sahu has sought the admission and deprived the genuine candidate from getting admission in a course like the M.B.B.S. course. The act of the applicant Sudhir Sahu that obtaining the admission at the inception of his carrier on the basis forged certificate itself is a serious act. As far as the contention of the learned Counsel for the applicants is concerned, the college or the Dean has no *locus standi* to lodge the report, in view of the observation of this Court. It is pertinent to note that Section 11 reads about the offences and penalties. Section 11(2) states that no Court shall take cognizance

of an offence punishable under this section except upon a complaint, in writing, made by the Scrutiny Committee or by any other officer duly authorised by the Scrutiny Committee for this purpose.

8. Here in the present case, the Scrutiny Committee itself has directed the College to take the appropriate action and accordingly the FIR was lodged by the College, therefore the contention raised by the learned Counsel for the applicants is not relevant. Considering the act of the present applicant Sudhir Sahu and his father Suresh Rajdev Sahu obtaining the forged certificate showing the seal and signature of Sub-Divisional Officer, Murtizapur, Sub-Divisional Officer, Akola and Sub-Divisional Officer, Washim and starting his carrier on the basis of the said forged certificate itself is a serious act. I am not inclined to protect such type of act by granting anticipatory bail to the applicants. Merely because, their custodial interrogation is not required is not sufficient ground to grant them anticipatory bail. In view of that, the applications deserves to be rejected. Accordingly, I proceed to pass following order.

The applications are hereby rejected.

(URMILA JOSHI-PHALKE, J.)