



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

946 ANTICIPATORY BAIL APPLICATION NO. 799 OF 2024

SUNITA AMRUTLAL CHAUDHARI

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

WITH

ANTICIPATORY BAIL APPLICATION NO. 988 OF 2024

DAGDU SHAMRAO BORSE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

WITH

ANTICIPATORY BAIL APPLICATION NO. 989 OF 2024

BHARTI PANDITRAO DESHMUKH

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

WITH

ANTICIPATORY BAIL APPLICATION NO. 1434 OF 2024

PRAKASH POONAMCHAND GUJAR

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

WITH

ANTICIPATORY BAIL APPLICATION NO. 1435 OF 2024

RAJENDRA MURALIDHAR WANI

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

WITH

ANTICIPATORY BAIL APPLICATION NO. 1436 OF 2024

LOTAN BHATU CHAUDHARI

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

WITH

ANTICIPATORY BAIL APPLICATION NO. 1437 OF 2024

RAJENDRA PANDIT CHAUDHARI

VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
...
WITH
ANTICIPATORY BAIL APPLICATION NO. 1909 OF 2024

AMRUT KESHAV KASAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
...
Advocate for Applicants in all matters : Mr. R.D. Biradar
APP for Respondents/State in all matters : Mr. B.B. Bhise
Advocate for assisting APP in ABA 799/24 : Mr. M.R. Wagh
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 05.02.2025

PER COURT :

1. Heard the learned counsel for the applicants, the learned APP for the respondents-State and Mr. M.R. Wagh, learned advocate assisting APP in ABA No. 799/2024.
2. The applicants in above matters are apprehending arrest in connection with Crime No. 86/2024 dated 12.4.2024 registered with Songir Police Station, District Dhule for the offences punishable under sections 420, 465, 467, 466 and 471 r/w. 34 of I.P.C.
3. In all these matters, this Court has granted interim protection to the applicants on 11.6.2024 in ABA No. **799/2024**, on 24.6.2024 in ABA Nos. 988 & 989 of 2024, on 20.8.2024 in ABA Nos. 1434, 1435, 1436, 1437 of 2024 and on 31.10.2024 in ABA No. 1909/2024. The learned counsel for the applicants submits that they have cooperated with the investigation. Primarily the case against the applicants is that they have applied for

pensionary benefits on the basis of fraudulent documents, which are noted in para 9 of the affidavit in reply filed by the Education Officer, Zilla Parishad, Dhule, as under :-

"9. I say and submit that, after perusal of the documents produced in the said inquiry following facts were revealed;

i. That the Applicant was granted approval by then Education Officer only for one year i.e. 1995-96, as Assistant Teacher.(unaided post).

ii. There was no approval of continuity of service of the Applicant.

iii. There was break in service (01.06.1997 to 01.01.2002) of the Applicant.

iv. Without there being any order of condoning the said service break from the concerned authorities, the Applicant with the help of the then Head Master took annual salary increments and effect was taken in her service record to claim future benefits."

4. It is stated that although there was break in service of the applicants from 1.6.1997 to 1.1.2002, the applicants without there being order of condoning the said service break from the concerned authority, with the help of the then Head Master took annual salary increments and effect was taken in service record of the applicants to claim the future benefits.

5. From perusal of the record, it is also noticed that the applicants (plaintiffs) have preferred R.C.S. No. 72/1998 for declaration and mandatory injunction, in which following order is passed on 6.12.2002 :-

"1. The suit is partly decreed with costs.

2. The plaintiffs are entitled to relief of absorption according to their seniority on regular pay scale and the

defendant Nos. 1 has directed to absorb the plaintiffs in N.G. Bagul High School, Songir, according to their seniority with effect from 1st January 2002.

3. It is hereby declared that the decision of defendant No. 1 for closing of Kanya Shala Songir and the order of withdrawal of recognition by the defendant Nos. 2 and 3 is illegal.

4. The plaintiffs claim regarding back wages and damages stands dismissed.

5. The claim of the defendant No. 1 regarding declaration that all the orders passed by the defendant Nos. 2 and 3 in respect of Kanya Shala Songir and Ex-Head-Mistress, as well as the appointment of plaintiffs be declared as null and void and regarding mandatory injunction directing the plaintiff No. 1 to hand over the documents to the defendant No. 1 stands dismissed as prayed by way of counter claim.

6. A decree be drawn up accordingly."

6. In the appeal filed i.e. Civil Appeal No. 31/2002 against the said decree before the District Court, Dhule, in which following order was passed on 27.8.2004 :-

"i. The appeal is hereby partly allowed.

ii. The judgment and decree passed by the trial Court declaring the decision of defendant No. 1, closing Kanya Vidyalaya, Songir and the order of withdrawal of recognition by the defendants 2 and 3 as illegal, is hereby set aside. The relief of declaration sought by the plaintiffs in that regard is hereby stands rejected.

iii. However, the judgment and decree passed by the trial Court as regards to absorption of plaintiffs according to their seniority on regular pay scale in N.G. Bagul High School, Songir, with effect from 1st January 2002 is hereby confirmed.

iv. Considering the particular facts and circumstances of the matter the parties to bear their own costs."

7. In view of the order passed by the District Court in appeal, the applicants herein had applied for pensionary benefits after their retirement and are getting pensionary benefits. Out of all the applicants, two applicants are still in service. It is stated that the present Head Master has made grievance to the Education Officer and on the basis of the same, the present F.I.R. is registered against the applicants contending therein that the applicants, without condoning the service break from the concerned authorities have applied for pensionary benefits on the basis of fraudulent documents and are getting the pensionary benefits.

8. In pursuance of the F.I.R., Criminal Bail Applicatin No. 406/2024 was filed for anticipatory bail before the Sessions Court and the same was rejected by the Sessions Court vide order dated 9.5.2024, by observing at para No. 6, as under :-

"6. The case papers are produced for perusal by the police and also by the applicant and the informant. Having considered the papers it is apparent that the sanction of girls High School, to which the applicant and other staff members were appointed, came to be withdrawn in 1997. Thereafter though the staff members' suit was decreed by the Civil Court and confirmed by the District Court, the said staff members were directed to be absorbed from 1" January, 2002 with salary and allowances. But the claim of said staff members regarding back-wages and allowances was rejected. It is clear that said staff members were not entitled to any salary and allowances in respect of the period from 1997 till their absorption in 2002 onwards. However, it is apparent that the applicant issued the recognition certificates in favour of staff members Prakash, Lotan, Rajendra Wani, Bharti Deshmukh and Rajendra Chaudhari,

showing them to be in service including for the period of girls High School. Thus, by providing false information, the applicant apparently caused financial loss to the Government and gain to the said staff members. The recognition certificates also reveal that the same are signed by the applicant showing herself to be Head Mistress, when actually she is not. Thus, at this stage there is material to show that the applicant has committed the offences of forgery and cheating. Her custodial interrogation is necessary to investigate as to where she committed the forgery, was any one else assisting her. In this background, this Court is not inclined to grant anticipatory bail to the applicant. Hence, order as follows is passed”

9. The learned Sessions Court has held that at this stage there is material to show that the applicants have committed the offences of forgery and cheating and their custodial interrogation is necessary to investigate as to where they committed the forgery. Prima-facie, the above observations of the Sessions Court are erroneous and based on the erroneous interpretation of the orders of the civil courts. The order of the civil court is that the plaintiffs (applicants herein) are entitled to relief of absorption according to their seniority on regular pay scale and the defendant Nos. 1 was directed to absorb the plaintiffs in another school according to their seniority with effect from 1st January 2002. Although the applicants were not held entitled to salary, but their seniority was protected. The applicants have not received the salary for the period they were out of service. In view of the orders of the civil courts, the applicants have applied for pensionary benefits and the same are given to the applicants. It was the duty of the Education Officer to verify the record and implement the orders of the Court. In the instant case, the applicants have applied for pension on the basis of orders of the civil courts and the concerned authorities have sanctioned pension to

the employees. In the event the authorities are of the view that pension is erroneously granted, the authorities may take appropriate action in that regard by following the due process of law. Prima facie, there is no criminality involved in the matter. In any event the evidence required to prosecute the applicants is documentary and in possession of the Education Department, as such no custodial interrogation is necessary. It is also submitted by the applicants that the proposal of pension is also signed by the present Head Master, who has raised the grievance before the Education Officer. It is the inter-se dispute between the applicants and the present Head Master, which has given rise to the F.I.R. Considering the facts and circumstances of the case, as noted above I hold that anticipatory bail can be granted to the applicants.

10. In view of the above, all the applications are allowed and the interim protection granted by this Court in favour of the applicants is confirmed on the following terms :

- i] The applicants shall attend the police station as and when required.
- ii] The applicants shall not tamper with the evidence of the prosecution in any manner. They shall not influence the informant, witnesses and other persons concerned with the case.
- iii. The applicants shall co-operate with the investigation and also in the proceedings before the trial Court.

11. In the event, the applicants violate any of the conditions specified in this order, it shall be liable to be cancelled.

12. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail applications and the trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

13. The applications stand disposed of.

[ARUN R. PEDNEKER, J.]

SSC/