



IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1811 OF 2024

1. Ali Shah Khan S/o Azad Khan
2. Imran Khan s/o Ali Shah Khan .....Applicants

VERSUS

The State of Maharashtra .....Respondent

Mr. P. R. Katneshwarkar, Senior Counsel instructed by Mr. A. A. Fulfagar, Advocate for Applicants.  
Mrs. M. L. Sangeet, APP for the State.

**CORAM : ADVAIT M. SETHNA, J.**

DATE : 8 JULY, 2025.

**P. C. :**

1. Both these Applications are filed by the Applicants as they apprehend arrest.

2. The proceedings arise out of C.R. No. 0351/2024. The First Information Report (for short '**FIR**') is lodged on 21 July 2024 at 19.14 hours by the Mondha Police Station, Dist. Parbhani. The occurrence of the alleged offence is stated between 10 July 2015 to 23 January 2024. The Informant is one Sk. Khaja s/o Jameel Mohiyoddin, a private person stated to be the President of Azad Welfare and Education Society. The present Applicants are accused

Nos. 1 and 3 respectively as disclosed in the FIR. The alleged offences are under Sections 409, 420, 465, 468, 470, 471, 120-B r/w 34 of the Indian Penal Code (for short '**IPC**'). At the very outset, it would be pertinent to refer to the order dated 21 October 2024 passed in ABA No. 1811/2024 along with ABA No. 1424/2024 whereby the Court has granted interim relief by protecting the Applicants by imposing certain conditions which are categorically referred to in Paragraph No. 6 of the order.

**CASE IN THE FIR :**

3. It is stated that one Azad Education and Welfare Society ("**Azad Society**" for short), Parbhani is an educational institution which is registered vide F-359 by the Assistant Charity Commissioner. There are seven members of the said society as named in the FIR which include its Chairman, Vice Chairman, Secretary and others. In all six schools are run by the said institution including Samata Jagruti Lalit Manch ("**The said School**" for short). The Competent Authority cum Joint Secretary, Minority Development Department, Maharashtra gave minority sanction certificate to the Azad Society vide Certificate No. 108 on 14 February 2024. In the other schools run by the Azad Society, there are seven

members i.e. Chairman, Vice Chairman, Secretary etc. which would include the Applicants before the Court. All the members of the said society and the school are having common members from the family. It is stated that the members of the Azad Society in collusion with each other and by hatching a conspiracy inter-se have prepared false and bogus Minority Sanction Certificate bearing No. 109. If Certificate Nos. 108 and 109 are verified, it would reveal that the minority sanction certificate No. 109 is bogus and it is a copy/imitation of Certificate No. 108. The Informant has verified the said bogus Certificate No. 109 by visiting the Government website through which he came to know that the said certificate belonging to one Sahyog Society, Baramati. In other words, it does not belong to Azad Society concerned with present proceedings. The Informant has also applied under Right to Information Act and the Government has provided information about sanction Certificate No. 109 which is forged/fabricated. It is in such circumstances that the report has been lodged and the FIR came to be registered.

**SUBMISSIONS :**

4. Heard the learned Advocates for the parties and with their assistance perused the record.

5. Mr. Katneshwarkar, the learned Senior Counsel would first submit that the entire controversy in the present proceedings relates to the minority sanction certificate No. 109 which is allegedly forged or fabricated. However, it is pertinent to note that such minority certificate was never used or produced by the Applicants before any authority in any manner whatsoever. He would submit that significantly, the said school is not having any status of minority and therefore, no benefits on the basis of such certificate are derived by the Applicants in any manner whatsoever. He would submit that the matter has checkered history. There were several proceedings filed and orders passed. He would first draw the attention of the Court to the order dated 8 July 2015 wherein the Division Bench of this Court directed the Respondents to grant approval to the appointment of the Azad Society/Petitioner therein if in accordance with the Government Resolution dated 18 August 2004. Pursuant to this, the matter has proceeded from time to time. For this purpose, it is pertinent to refer to the proposal dated 10 July 2015 wherein along with proposal there are several documents referred to. The learned Senior Counsel would specifically point out that there is no reference to this particular allegedly forged minority sanction certificate. Then he would make a reference to order dated 28 January 2016 passed

by the Zilla Parishad, Parbhani, whereby the authority has refused to grant any approval to those seven persons primarily on the ground of illegal staffing pattern and such reason as mentioned in the said order dated 28 January 2016. Such order was a subject matter of challenge once again before the High Court wherein by order dated 27 April 2017, the Petition was admitted and Rule issued. Thus, he would submit that all documents placed on record including the order passed by the High Court nowhere refers to the allegedly forged Certificate No. 109 used in any manner by the Azad Society. He would further make a reference to an application under the Right To Information Act dated 3 November 2022 to submit that the said communication in categorical terms states that the said certificate was not used by the society in any manner whatsoever.

6. He would then submit that the terms and conditions set out in the initial/earlier interim order dated 21 October 2024 have also been complied by the Applicants in letter and spirit and therefore the Application deserves to be allowed and the order dated 21 October 2024 ought to be confirmed.

7. On the other hand, the learned APP would vehemently oppose the Application and the submissions made by the learned Senior Counsel. She would submit that the FIR particularly in Paragraph Nos. 6 to 8 categorically reveal that Certificate No. 109 is fabricated, forged and it was meant for another society i.e. Sahyog society, Baramati. It was wrongly used by the Azad Society for various purposes to claim illegal benefits. Referring to the case diary, she would point out that on 31 July 2024, the Competent Authority had requisitioned the salary slips from this particular society which, despite such requisition have not been furnished by the Applicants. She would then gainfully refer to a letter dated 30 March 2025 by the Office of the Zilla Parishad, Parbhani addressed to the Government Pleader, Aurangabad to state that Certificate No. 109 prima facie appears to be forged or fabricated and has been wrongly used by Azad Society. She would further submit that on a bare perusal of the original certificate and the forged certificate which are on record, would make it evident that the Certificate No. 109 is forged and/or fabricated.

**FINDINGS :**

8. After having perused the record available and heard the learned Advocates for the parties, it appears firstly that in the initial order dated 21 October 2024, the Court has set out the reasons on the aspect of prima facie case and then granted interim relief to the Applicant. Thereafter in my view, there has not been any change in the facts and circumstances as far as the prima facie case of the Applicant in the present proceedings is concerned. Nothing startling and/or different or distinct on facts and/or otherwise has been pointed out by the prosecution to indicate change in circumstances pursuant to the order dated 21 October 2024. It is pertinent to note that despite the dispute being taken to the High Court and orders passed by the Competent Authority from time to time, there is nothing to even remotely support the prosecution's case in regard to the alleged forged or fabricated Minority Certificate No. 109 as also claimed by the Complainant/Informant. Infact, observations made vide order dated 8 July 2015 and the subsequent order dated 27 April 2017 wherein the High Court has inter-alia directed to grant approval to the appointments of Azad Society and pay salary including arrears to these persons in whose favour the orders of approval have been issued. There is no dispute that such orders have been passed in civil proceedings. However, one cannot lose

sight of that such orders in the manner so passed would not be so in the teeth of alleged forged/fabricated Certificate No. 109, as alleged in the Complaint of the Informant which, *prima facie*, is not supported and/or corroborated. It is pertinent to note that as submitted by the learned Senior Counsel, the said school i.e. Samata Jagruti Lalit Manch is not a minority institution. This is not controverted by the prosecution in any manner whatsoever. Prima facie there appears to be substance in the submissions made by the learned Senior Counsel that there was no occasion to forge such certificate when it was never put to any use. This is further supported by the response to the application under RTI dated 30 August 2022 to which the prosecution has nothing to controvert. In my prima facie view, considering the matter holistically, it appears that the ingredients of offences under the alleged sections, at this stage of the proceedings are not coming to light against the Applicants. A prima facie case has been made out by the Applicants. There is nothing placed on record by the prosecution to controvert that the Applicants have breached the terms and conditions set out in the order dated 21 October 2024 to justify their custody. In view thereof, the custodial interrogation of the Applicants in the given factual matrix would not be necessary. The learned Senior Counsel has invited the attention

of the Court to the order dated 28 October 2024 passed in Writ Petition No. 2492/2024 by the Principal Bench where the Court has cautioned all Education Departments and Statutory Authorities to refrain from entertaining complaints/applications/representations by unconnected people in terms of certain notifications and circulars and Government Resolution dated 14 October 2019. This is duly noted.

9. For the reasons above, the interim order dated 21 October 2024 is confirmed. In my view, the following order would meet the needs of justice.

#### **ORDER**

(i) In the event of arrest of the applicants in connection with C.R. No. 0351/2024, registered with Mondha Police Station, Dist. Parbhani, for the offences punishable under Sections 409, 420, 465, 468, 470, 471 120-B r/w 34 of the IPC, the applicants are directed to be released on bail on furnishing PR bond in the sum of Rs. 15,000/- (Rupees Fifteen Thousand Only) each with one solvent surety in the like amount.

(ii) The applicants shall attend the concerned Police Station as and when required till filing of the charge-sheet. They are further directed to co-operate the investigation.

(iii) The applicants shall furnish details of residential address and other contact details such as the mobile number etc. to the concerned police station. If there is any change in the contact details, the same shall be

immediately informed to the concerned police station.

(iv) The applicants shall not leave the jurisdiction of the Court without prior permission of the Court, until further orders.

(v) They shall not contact and/or influence the witness/es and/or tamper with the evidence in any manner whatsoever.

10. ABA is allowed in above terms.

11. Needless to mention the above observations are prima facie and limited to the adjudication of this ABA.

( ADVAIT M. SETHNA, J.)

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