



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

CRIMINAL APPLICATION (BA) NO.681 OF 2025

Dr. Vaishali Jagannath Jamdar

Vs.

The State of Maharashtra through Police Station Officer, Cyber Police
Station, Nagpur

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

Court's or Judge's orders

Mr. Sunil V. Manohar, Senior Counsel a/b Mr. Nitin Jachak, Counsel for the
applicant.

Mr. D. V. Chauhan, Public Prosecutor along with Mr. N. B. Jawade, APP for
State.

CORAM : URMILA JOSHI-PHALKE, J.

RESERVED ON : 29.07.2025

PRONOUNCED ON : 12.08.2025

1. By this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant seeks regular bail in connection with Crime No.24/2025 registered with Cyber Police Station, Nagpur for the offence punishable under Sections 66(c) of the Information Technology Act, under Sections 318(4), 319(2), 336(3), 338, 340(1), 340(2) of the Bharatiya Nyaya Sanhita, 2023, the applicant is arrested on 23.05.2025.

2. The crime is registered on the basis of a report lodged by Ravindra Patil, who is working as Junior Administrative Officer at the office of the Deputy Director of Education, Nagpur Division since 01.09.2021. The said office had received complaints

about the creation of bogus Shalarth IDs and withdrawal of salary on the basis of the same, by the teachers of private unaided schools, which are not in existence. Therefore, on 23.08.2024, a Committee to examine these allegations was formed. During the inquiry, it revealed that without there being creation of Shalarth IDs by the office of the Deputy Director of Education, Nagpur Division, the Shalarth IDs were created, without the draft for the same, being generated by the office of Deputy Director. During the tenure of the present applicant allegedly from 20.12.2020 to 24.05.2023, 211 fake Shalarth IDs were created in respect of private aided and partially aided teachers and non-teaching staff and caused the loss to the State Exchequer to the tune of Rs.145,88,31,698/-. On the basis of the said allegations, the crime is registered against the present applicant.

3. Heard learned Senior Counsel for the applicant, who submitted that the tenure of the present applicant as an incharge Deputy Director of Education was from 20.12.2020 to 24.05.2023. He invited my attention towards the scheme, in view of the Government Resolution dated 07.11.2012 and submitted that as per the said Government Resolution, the entire data entry has to be carried out by the headmaster and the work assigned to the Deputy Director was the supervisory work. Thus, the entire data entry was filled up by the concerned

headmaster. As far as the present applicant is concerned, who was only in the Supervisory capacity. The subsequent Government Resolution dated 20.12.2006 cast the responsibility upon a special task force. Thus, as far as the applicant is concerned, who was not assigned the work of filling any information in the Shalarth ID. She was posted at Nagpur for the period mentioned above as Deputy Director of Education, Nagpur Division. In view of the guidelines issued dated 29.03.2019 by the Commissioner of Education, the applicant was under an obligation to pass the necessary order in the prescribed format for entering the name of the employees in the Shalarth Pranali. In view of the said communication, she has issued offline orders for entering the names of concerned teaching and non-teaching employees in the Shalarth Pranali, on the basis of the proposals forwarded by the concerned Education Officer. During her tenure, as Deputy Director of Education, there was deficiency, but it was not the applicant, who has filled up information. In fact, the Director of Education of Pune informed that she had rejected total 48 personal approvals issued by the concerned Education Officer and in the said communication, she has specifically stated that the concerned Education Officer is responsible for loss caused to the Government Exchequer. Thus, he submitted that as far as the involvement of the present applicant is concerned, merely because she works as Education Officer. The Investigating Officer

has not ascertained whether she was assigned with any duty as to the filling of any data. He also invited my attention towards the order passed by this Court in **Amol Baban Sangar Vs. State of Maharashtra** reported in **2022 SCC OnLine Bom 382**, wherein this Court has observed that the Government Resolution dated 07.11.2012 is not being followed in it's letter and spirit and time and again, this Court is coming across several Writ Petitions raising a common grievance that the Deputy Director, Education has refused to include name of a school employee or a teacher on a consideration extraneous to the Government Resolution dated 07.11.2012. Undoubtedly, that ground irregular grant of approval to the appointment of any school employee by the Education officer, which is taken by the Education Officer for refusing to include the name of such employee in Shalarth system is something which is completely alien to the Government Resolution dated 07.11.2012 and it could never be taken recourse to by the Deputy Director, Education for recording his refusal in such a matter.

4. Thus, he submitted that in view of the observation of this Court in Writ Petitions wherein the common grievance was raised and by passing order the Division Bench of this Court held that once approval is granted, the Deputy Director of Education has no role to play and then Deputy Director would not have refuse to enter the name, therefore no role

is assigned to the present applicant as far as the data entry in respect of the employees are concerned.

5. The another ground raised by the applicant is that the ground for arrest are not communicated to the present applicant and thus, it is contravention of Article 22(1) of the Constitution of India and Section 50A of the Code of Criminal Procedure. On that ground also, he submitted that the application of the applicant deserves to be allowed as the arrest itself is invalid.

6. Per contra, learned APP strongly opposed the said application and submitted that the recruitment of the teachers was not made since 2012 in the State of Maharashtra. By Government Resolution dated 20.03.2019, the Deputy Director of Education was given the authority to include the names of teaching and non-teaching staff in Shalarth system. As per the said Government Resolution, the concerned Education Officer used to grant approval to the employees and forward to the office of the Deputy Director of Education. Thereafter, detailed information regarding the said employees has to be filled in the concerned school/management and further forwarded to the office of the Superintendent, Pay and Provident Fund. The Superintendent office has been granted power and duty to verify the said information and thereafter approve the salary bills in respect of the concerned employees. During the

inquiry conducted by various authorities, it was found that there was huge irregularities in respect of grant of Shalarth IDs. The process of Shalarth ID creation has started during the tenure of the present applicant and during her tenure, 211 fake IDs were created. On the basis of which, these private aided and partially aided teachers and non-teaching staff had drawn salaries and thereby caused a loss to the said Exchequer. In view of that, the application deserves to be rejected.

7. On hearing both sides and on perusal of the investigation papers, it reveals that there was no recruitment of the teachers since 2012 in the State of Maharashtra. On 07.11.2012 the Government of Maharashtra issued a Government Resolution and by the said Government Resolution, the duty of filling of the entire data as to the employment of teachers i.e. data entry was assigned to the headmaster of the concerned school and the Deputy Education Officer were assigned the duty to verify the same and forward it again to the school and school has to forward the salary bills to the Superintendent, Pay and Provident Fund. By way of subsequent Government Resolution, the duty was assigned to the Education Officer. On perusal of the Government Resolution dated 20.03.2019, authority to include the name is given to Deputy Director of Education of Division/Divisional President Secondary and Higher

Secondary. As per the procedure laid down in the said Government Resolution is as follows:

(i) After approval by the Education Officer or Divisional President Secondary Higher Secondary concern school will send proposal to the Education Officer or Deputy Director or Divisional President of Secondary and Higher Secondary.

(ii) On receipt of proposal, same is to be verified by the concerned person in order to include the name and passed an order to that effect.

(iii) After order is passed by the Deputy Director/Divisional President of Secondary/High Secondary, name of the concerned employee is included in Shalarth Pranali.

(iv) After including the name of an employee in Shalarth Pranali, draft is made available on the login of headmaster.

(v) Office of headmaster will fill the remaining information and forward draft to the Superintendent, Pay and Provident Fund Unit, Zilla Parishad.

(vi) The Superintendent, Pay and Provident Fund Unit have to verify the information and sanction draft thereafter the Shalarth ID is generated.

8. Thus, as per the Government Resolution dated 20.03.2019, after approval by Education

Officer the concerned school has to send proposal to the Education Officer or Deputy Director or Divisional President of Secondary and Higher Secondary. The entry in the proposal are to be verified by the Deputy Director of Education / Divisional President and thereafter order is to be passed by the above said authorities to the extent of entering the name of the concerned employee in Shalarth Pranali. Thus, this procedure shows the responsibility was on the Deputy Director of Education to verify the entire information forwarded to it after approval is granted before including the name of said employees in Shalarth scheme. On perusal of the investigation papers, it reveals that the applicant was holding additional charge of Deputy Director of Education from 20.12.2020 to 24.05.2023. During her tenure, 211 fake IDs were created. On the basis of which these private aided and partially aided teachers and non-teaching staff had drawn the salary. In total Nagpur Division 680 fake Shalarth IDs were created and loss is caused to the State Exchequer to the tune of Rs.145,88,31,698/-. Thus, the applicant was the responsible officer of education department. The ID and password required for creating the Shalarth ID were given to the Deputy Director of Education. The applicant by directing the co-accused who were working in her office had created 211 fake IDs, due to which those persons have continued on the service and drawn the salaries and not only the salaries, but they have also drawn the arrears of the salaries.

Thus, the involvement of the present applicant, admittedly, reveals from the investigation papers. It further reveals during the investigation that the applicant is not only involved in creating the fake ID, but the statement of the witnesses recorded during the investigation also shows that she has demanded the gratification amount from the various employees before granting of the approval. Learned Senior Counsel submitted that these statements of those people to whom the approval was not granted. Admittedly, this aspect is to be considered after the investigation is completed and at the time of trial. As far as the involvement of the applicant is concerned, which reveals from the investigation papers.

9. Another ground raised by the learned Senior Counsel for the applicant is that the applicant was arrested on 23.05.2025 and she was not served with the grounds of arrest and therefore, the guarantee of life and liberty as enshrined under Article 21 of the Constitution of India available to citizens is violated by the investigating agency. On that ground itself he submitted that the application deserves to be allowed.

10. He placed reliance on **Vihaan Kumar Vs. State Haryana** in **Special Leave Petition (Crl) 13320/2024 decided on 07.02.2025**, wherein the Hon'ble Apex Court has dealt with the issue and observed that the stand taken before the High Court

was that the appellant's wife was informed about the arrest. Information about the arrest is completely different from the grounds of arrest. The grounds of arrest are different from the arrest memo. The arrest memo incorporates the name of the arrested person, his permanent address, present address, particulars of FIR and Section applied, place of arrest, date and time of arrest, the name of the officer arresting the accused and name, address and phone number of the person to whom information about arrest has been given. We have perused the arrest memo in the present case. The same contains only the information stated above and not the grounds of arrest. The information about the arrest is completely different from information about the grounds of arrest. Mere information of arrest will not amount to furnishing grounds of arrest.

11. It is further observed in para No.31 that all courts, including the High Court, have a duty to uphold fundamental rights. Once a violation of a fundamental right under Article 22(1) was alleged, it was the duty of the High Court to go into the said contention and decide in one way or the other. When a violation of Article 22(1) is alleged with respect to grounds of arrest, there can be possible two contentions raised: (a) that the arrested person was not informed of the grounds of arrest, or (b) purported information of grounds of arrest does not contain any ground of arrest.

12. As far as the first contention is concerned, the person who is arrested can discharge his burden by simply alleging that grounds of arrest were not informed to him. If such an allegation is made in the pleadings, the entire burden is on the arresting agency or the State to satisfy the court that effective compliance was made with the requirement of Article 22(1). It is further observed that aforesaid provision of requirement for communicating the grounds of arrest, to be purposeful, is also required to be communicated to the friends, relatives or such other persons of the accused as may be disclosed or nominated by the arrested person for the purpose of giving such information as provided under Section 50A of the CrPC. The purpose of inserting Section 50A of the CrPC, making it obligatory on the person making arrest to inform about the arrest to the friends, relatives or persons nominated by the arrested person, is to ensure that they would be able to take immediate and prompt actions to secure the release of the arrested person as permissible under the law. The arrested person, because of his detention, may not have immediate and easy access to the legal process for securing his release, which would otherwise be available to the friends and relatives.

13. Learned Senior Counsel for the applicant submitted that the communication issued to the friends, relatives of the applicant nowhere discloses

as to the ground of arrest. Being it is a violation of the fundamental right of the applicant, requirement of communicating the grounds of arrest is not complied with, in view of Article 22(1) of the Constitution, such arrest may be rendered illegal.

14. Admittedly, now issue whether such compliance is required in each and every case is referred before the larger Bench, but at present the observation of the Hon'ble Apex Court in **Vihaan Kumar Vs. State Haryana** referred supra, holds the field.

15. As far as the merits of the matter is concerned, involvement of the applicant reveals in an economic offence. As regards economic offence, while granting bail the Court has to take into consideration nature of accusation, nature of evidence in support thereof and the severity of the punishment.

16. As far as the involvement of the applicant in the alleged offence is concerned, which reveals from the investigation papers, but as the grounds of arrest are not communicated to the applicant and therefore such arrest in the light of the judgment in the case of **Vihaan Kumar Vs. State Haryana** referred supra is illegal.

17. The guarantee of life and liberty as enshrined under Article 21 of the Constitution of India

available to citizens of this country cannot be denied even to an accused who is in custody and surely not to a suspect who is sought to be converted to an accused on an investigation and then from an accused to a convict on trial. It is an obligation upon the State as well as on the Court to ensure that there is no infringement of the indivisible right of citizen to life and liberty, which he cannot be deprived of without following the procedure established by law. The Cr.P.C. describes the manner and to the extent of what a person can be denuded of his liberty and, therefore, needs a strict compliance. Any violation of the prescribed procedure in the matter of arrest can, therefore, liable to be declared as illegal.

18. In the light of the above facts and circumstances, as the grounds of arrest are not communicated to the present applicant and therefore the arrest itself is illegal, in view of that, the applicant deserves to be released on bail. Accordingly, I proceed to pass following order:

ORDER

(i) The application is allowed.

(ii) The applicant **Dr. Vaishali Jagannath Jamdar** shall be released on bail in connection with Crime No.24/2025 registered with Cyber Police Station, Nagpur for the offence punishable under Sections 66(c) of the Information Technology Act, under Sections 318(4), 319(2), 336(3), 338, 340(1), 340(2) of the Bharatiya Nyaya Sanhita, 2023, on

executing PR bond in the sum of Rs.1,00,000/- with two solvent sureties of the like amount.

(iii) The applicant shall attend the Police Station once in a week on Sunday between 10.00 a.m. to 1.00 p.m. till completion of the investigation and shall cooperate with the investigating agency.

(iv) The applicant shall not leave the jurisdiction of the Nagpur District without prior permission of the District Court Nagpur.

(v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the present case and shall not indulge in similar type of the activities.

(vi) The applicant shall attend the proceeding before the trial Court without seeking any exemption unless there are exceptional circumstances.

(vii) The applicant shall furnish her cell phone number and residential address along with the names of two relatives along with their address proof.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)