



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

CRIMINAL APPLICATION (ABA) NO.464 OF 2025

Nilesh s/o Baburao Waghmare

Vs.

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

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

Court's or Judge's orders

Mr. Firdos Mirza Senior Counsel a/b Mr. Ganesh N. Khanzode, 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. Apprehending the arrest at the hands of police 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 approached this Court for grant of pre-arrest bail.

2. The applicant is apprehending arrest at the hands of police as on 12.03.2025 a FIR was registered on the basis of a report lodged by Ravindra Patil, who was working as Administrative Officer with the Deputy Director of Education, Nagpur. As per the allegation, since June 2024

complaints were received by their office regarding bogus appointments being made in aided schools and causing loss to the Government. Accordingly, one inquiry committee was constituted and it was found that by misusing passwords in respect of the Shalarth system, drafts were generated in spite of there being no orders from the office of the Deputy Director of Education regarding the same. It was further alleged that as per the 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 grant approval to the employees and forwarded it to the office of Deputy Director of Education. Thereafter, detailed information regarding the said employees has to be filled in by the concerned school/management and further forwarded to the office of the Superintendent, Pay and Provident Fund. The Superintendent's office has given power and duty to verify the said information and thereafter approve the salary bills in respect of the concerned employee. During inquiry conducted by various authorities, it was found that there were huge irregularities in respect of grant of Shalarth IDs and without verifying whether the Shalarth IDs were created or not. The names of the employees were included in the said scheme, despite no orders from the office of the Deputy Director of Education were passed as to their approval and the salaries were

released. Thus, the Superintendent, Pay and Provident Fund Unit was responsible for forwarding the said salary bills of the concerned employees without verification.

3. On the basis of the above said allegations, the crime is registered against the present applicant.

4. Heard learned Senior Counsel Mr. Firdos Mirza for the applicant, who submitted that as far as the role of the present concerned, is only to the extent of verifying the salary bills as per the available copies on record and approvals granted by the Education Officer and the Deputy Director. As per the policy of the State laid down in the Government Resolution dated 20.03.2025, the power of granting approval to issuing Shalarth ID is with the Education Officer and the decision making authority regarding those Shalarth IDs is the Deputy Director. The applicant, who is working as Superintendent, Pay and Provident Fund does not possess any independent decision making authority over issuance of Shalarth IDs. On 23.09.2024, the Director of Education (Primary) constituted a committee headed by the Divisional Chairman, Nagpur to inquire against the employees of the office of Deputy Director of Education, Nagpur, regarding the creation of bogus Shalarth ID. The above mentioned Committee had sought some documents/information from the applicant. The applicant submitted his reply stating

that the record / register regarding approval of Shalarth ID is not available with this office as the power of issuing the approval is with the office of the Education Officer. The entire record in this case has been seized by the police and now nothing remains to be seized from the present applicant. The another co-accused Mr. Ulhas Narad is already released on bail by the Sessions Court. As far as the custodial interrogation of the present applicant is concerned, which is not required. In view of that, he be released on anticipatory bail.

5. In support of the contention, learned Senior Counsel placed reliance on **Ashok Kumar Vs. State of Union Territory Chandigarh** in **Special Leave Petition (Crl.) No. 9949/2023 dated 01.03.2024** and invited my attention towards the para No.12 wherein it is observed that "There is no gainsaying that custodial interrogation is one of the effective modes of investigating into the alleged crime. It is equally true that just because custodial interrogation is not required that by itself may also not be a ground to release an accused on anticipatory bail if the offences are of a serious nature. However, a mere assertion on the part of the State while opposing the plea for anticipatory bail that custodial interrogation is required would not be sufficient. The State would have to show or indicate more than prima facie why the custodial interrogation of the accused is required for the purpose of investigation."

6. He further placed reliance on the decision of the Hon'ble Apex Court in the case of **Siddharam Satlingappa Mhetre vs State Of Maharashtra and others** reported in **(2011) 1 SCC 694** wherein principles are laid down while considering the anticipatory bail application of the accused.

7. Per contra, learned APP strongly opposed the said application on the ground that during the investigation, it revealed that the Superintendent office Pay and Provident Fund having granted power to verify the information and thereafter, approve those salary bills in respect of the concerned employees. The inquiry conducted by various authorities, it was found that there were huge irregularities in respect of grant of Shalarth IDs. The names of the employees were included in the said scheme though there were no approvals from the office of the Deputy Director of Education. The investigating agency found that there was large scale misuse of Shalarth IDs and wrongful loss was caused to the Government Exchequer. As per the circular dated 07.03.2024, it has been specifically stated that the Superintendent, Pay and Provident Fund has the duty to verify the approvals of the concerned employees, after the same is forwarded by the Education Officer. However, the present applicant did not follow the said procedure and around 580 employees were granted bogus Shalarth IDs and

therefore, salaries were also released. As the applicant was found involved in the commission of the said offence, his custodial interrogation is required and therefore, the application deserves to be rejected.

8. On hearing both sides and on perusal of the investigation papers, it reveals that the present applicant was working as the Superintendent, Pay and Provident Fund. As per the allegation, he has not verified the record before releasing the salary and thereby released the salary and caused the loss to the Government Exchequer. On perusal of the investigation papers, it reveals that there was no recruitment process in the State of Maharashtra for filling of the post of teachers. By Government Resolution dated 20.03.2019, the Deputy Director of Education authorized to include the names of teaching and non-teaching staff in Shalarth system. As per Government Resolution dated 20.03.2019, authority was given to include the names of the employees to the Deputy Director of Education of Division/Divisional President of 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, the concerned school will send proposal to the Education Officer or Deputy Director or Divisional President of Secondary / Higher Secondary.

(ii) On receipt of proposal, the same is to be verified by Deputy Director of Education / Divisional President Secondary/Higher Secondary and pass order to include the name of the said employee in a Shalarth.

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

(iv) After including the name of the 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.

9. During the investigation, it reveals that the present applicant has not verified the procedure and around 580 employees were granted bogus Shalarth IDs and thereafter, without verifying the record, salaries were released. The inquiry report shows that in all 580 employees were granted bogus Shalarth IDs and the office of the present applicant i.e. the present applicant has released the salaries which comes to the tune of Rs.145,88,31,698/-. It is submitted that the other co-accused is released on

bail, however, the other co-accused is released on bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). It is well settled that merely because the custodial interrogation is not required is not sufficient to release the accused on bail in the event of his arrest.

10. The considerations for grant of regular and the anticipatory bail are different. While considering the anticipatory bail the Court has to consider the following parameters:

(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made.

(ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

(iii) The possibility of the applicant to flee from justice;

(iv) The possibility of the accused's likelihood to repeat similar or the other offences.

(v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

(vi) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.

(vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case.

(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(ix) The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant.

11. The above said factors and parameters are also laid down in the decision of **Siddharam Satlingappa Mhetre** (referred supra) relied upon that the learned Senior Counsel for the applicant.

12. In the light of the above parameters laid down, if the facts of the present case are taken into consideration, which shows that during the tenure of the present applicant, on the basis of the fake Shalarth IDs created the salaries are disbursed without verifying whether the approval granted or not and without verifying the documents and thereby the loss to the tune of Rs.145,88,31,698/- was caused to

the State Exchequer. The applicant who was serving as the Superintendent and was assigned with the responsibility to verify the information, and thereafter sanction the draft and thereafter, the Shalarth ID is to be generated. The investigation papers shows that the Shalarth IDs are generated without verifying the said facts. The investigation admittedly is at a crucial stage. The custodial interrogation of the present applicant is required, considering the huge magnitude of the amount involved in the said crime. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass following order:

ORDER

The application is rejected.

(URMILA JOSHI-PHALKE, J.)