

**The High Court of Madhya Pradesh**

**Merc.4201.2021**

**[Dr. Neha Padam Vs. Central Bureau of Investigation]**

**Gwalior dated 12.02.2021**

Shri Navtej Singh Ruprah, learned counsel for the petitioner.

Shri Praveen Newaskar, learned ASGI for the respondent/CBI.

Heard through video conferencing.

This is first application u/S.438 Cr.P.C. for grant of anticipatory bail by the petitioner.

Petitioner apprehends arrest in connection with offence punishable u/Ss.120-B, 201, 204, 408, 419, 420, 468, 471, 477-A IPC., Ss. 13(2), 13(1)(d) of Prevention of Corruptions Act, 1988 and Ss. 4/3D (1)(2) of M.P. Recognized Examinations Act, 1937 registered as RC2172015S0009 (Crime No. 271/2014) pending before IV Additional Sessions Judge/Special Judge CBI (VYAPAM), (M.P.).

Petitioner being candidate is alleged with offence of cheating and forgery in M.P. PMT Examination 2011 followed by admission to private college nomenclatured as Chirayu Medical College, Bhopal. Petitioner has no antecedents.

Learned counsel for CBI Shri Newaskar by filing reply informs that supplementary charge-sheet qua petitioner has been filed on 7/1/2021. Reply also reveals that petitioner has cooperated in

investigation process as and when summoned by Investigating Agency and therefore custodial interrogation is not required.

More over, the principle laid down by Apex Court including the case of *Siddharam Satlingappa Mhetre vs. State of Maharashtra and others (2011) 1 SCC 694* and subsequent decisions not only emphasize the importance of gravity of offence but also the attribute of accused cooperating in investigation and trial as one of the persuading considerations while exercising jurisdiction u/S. 438 Cr.P.C. In the instant case, petitioner as is evident from reply of CBI has appeared as and when required during investigation. Thus, sending petitioner to custody in the given facts would be akin to punishing him for the offence which is yet to be established thereby violating the fundamental principle of criminal jurisprudence i.e. “presumption of innocence”.

Among few important factors to be considered while deciding application for anticipatory bail are gravity of offence and also conduct of accused in cooperating in investigation and the prospects of doing so in future and also in trial. Apex court in case of *Siddharam Satlingappa Mhetre Vs. State of Maharashtra and Others (supra)* in some what similar situation came to hold :-

*“89. It is imperative for the courts to carefully and with meticulous precision evaluate the facts of the case. The discretion must be exercised on the basis of the available material and the facts of the particular*

*case. In cases where the court is of the considered view that the accused has joined investigation and he is fully cooperating with the investigating agency and is not likely to abscond, in that event, custodial interrogation should be avoided.*

*90. A great ignominy, humiliation and disgrace is attached to the arrest. Arrest leads to many serious consequences not only for the accused but for the entire family and at times for the entire community. Most people do not make any distinction between arrest at a pre-conviction stage or post-conviction stage. Whether the powers under section 438 Cr.P.C. are subject to limitation of section 437 Cr.P.C.”*

Said judgment has been referred with approval in subsequent decision of Apex Court in ***Bhadresh Bipinbhai Sheth Vs. State Of Gujarat & Another (2016)1 SCC 152*** and also in ***Sushila Aggarwal and others Vs. State (Nct Of Delhi) and another (2020) 5 SCC 1*** but with certain reservations in regard to the aspect of imposition of conditions while granting anticipatory bail.

After hearing learned counsel for rival parties and considering the fact that investigation in the matter qua petitioner is over and thus custodial interrogation is not required and that petitioner appears to have participated in the investigation by appearing as and when summoned and also that petitioner being a woman, may not be able to bear the rigors of incarceration, this court without entering into merits of the matter lest it may prejudice learned trial judge, deems it appropriate to extend the benefit of bail to the petitioner.

Accordingly, this application u/S. 438 of Cr.P.C. stands allowed in the following terms.

It is hereby directed that in the event of arrest, the petitioner shall be released on bail on furnishing a personal bond in the sum of **Rs. 50,000/- (Rs. Fifty Thousand only) with one solvent surety of the like amount** to the satisfaction of the Trial Court concerned.

This order will remain operative subject to compliance of the following conditions by the petitioner :-

1. The petitioner will comply with all the terms and conditions of the bond executed by her;
2. The petitioner will cooperate in the trial;
3. The petitioner will not indulge herself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The petitioner shall not commit an offence similar to the offence of which she is accused;
5. The petitioner will not seek unnecessary adjournments during the trial;
6. The petitioner will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be;
7. The petitioner as a Shiksha Swayamsevak shall render physical and financial assistance to government

primary school situated nearest to residence of petitioner for ensuring hygiene and sanitation and for removing deficiencies of infrastructural amenities in the said school from the skill/resources of the petitioner. [याचिकाकर्ता एक शिक्षा स्वयंसेवक के रूप में अपने निवास के निकट अवस्थित सरकारी प्राथमिक विद्यालय में स्वच्छता और आरोग्य को सुनिश्चित करने के लिए शारीरिक एवं वित्तीय सहायता प्रदान करेगा तथा अपने कौशल व संसाधनों से उक्त विद्यालय में अवसंरचनात्मक सुविधाओं की कमियों को दूर करेगा।]

The petitioner after selecting a particular Govt. Primary School shall inform about the same to the office of Gram Panchayat (in case of rural area) and/or Ward Officer of the concerned ward (in case of urban area), within whose territorial jurisdiction the said school is situated.

[याचिकाकर्ता एक विशिष्ट प्राथमिक सरकारी स्कूल का चयन करने के पश्चात् इसके बारे में ग्राम पंचायत के कार्यालय (ग्रामीण क्षेत्र के मामले में) और/या सम्बंधित वार्ड के वार्ड अधिकारी (शहरी क्षेत्र के मामले में) जिसके क्षेत्राधिकार में उक्त स्कूल अवस्थित है, को सूचित करेगा।]

It will be joint responsibility of Sarpanch and Secretary of said Gram Panchayat (in case of rural area) and/or Ward Officer of the concerned ward (in case of urban area) to preserve the said information provided by the petitioner. [यह सम्बंधित वार्ड के वार्ड अधिकारी (शहरी क्षेत्र के मामले में) और/या उक्त ग्राम पंचायत के सरपंच और सचिव (ग्रामीण क्षेत्र के मामले में) की संयुक्त जिम्मेदारी होगी कि, याचिकाकर्ता द्वारा प्रदत्त सूचना को संरक्षित करे।]

The Registry of this Court shall communicate this order through Legal Aid Officer, SALSA, Gwalior to the Collector, District Education

Officer, Block Education Officer of the district/block concerned for information and compliance.

A copy of this order be supplied to the Legal Aid Officer, SALSA, Gwalior who is directed to communicate this order to the District Education Officer, Block Education Officer of the district/block concerned to verify as to whether petitioner has complied with condition No.7 or not and submit report once every month.

In case, report regarding condition No.7 is not filed or report is found to be wanting in any manner then Registry is directed to list this matter as PUD before appropriate Bench.

A copy of this order be sent to the Court concerned for information.

C.c as per rules.

**(Sheel Nagu)**  
**Judge**

**(Anand Pathak)**  
**Judge**

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