

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE MANINDER S. BHATTI

ON THE 9th OF JULY, 2024

MISC. CRIMINAL CASE No. 28006 of 2024

SHAJI THOMAS

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Brian D'Silva - Senior Counsel assisted by Shri Abhishek Dilraj - Advocate for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the State.

MISC. CRIMINAL CASE No. 27770 of 2024

AJAY UMESH KUMAR JAMES

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Brian D'Silva - Senior Counsel assisted by Shri Abhishek Dilraj - Advocate for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the State.

MISC. CRIMINAL CASE No. 24363 of 2024

SUBODH NEMA

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Manish Datt - Senior Counsel assisted by Shri Mayank Sharma and Shri Nishank Pal Verma - Advocates for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the State.

MISC. CRIMINAL CASE No. 24364 of 2024

SMT. CHITRANGI IYER

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Manish Datt - Senior Counsel assisted by Shri Mayank Sharma and Shri Nishank Pal Verma - Advocates for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the State.

MISC. CRIMINAL CASE No. 24322 of 2024

BHARTESH BHARIL

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Sanjay K. Agrawal - Senior Counsel assisted by Shri Yashowardhan Jain and Shri Kapil Patwardhan - Advocates for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the State.

MISC. CRIMINAL CASE No. 24418 of 2024

FR. ABRAHAM THAZHATHEDATHU

सत्यमेव जयते *Versus*

THE STATE OF MADHYA PRADESH

Appearance:

Shri Brian D'Silva - Senior Counsel assisted by Shri Abhishek Dilraj - Advocate for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the State.

MISC. CRIMINAL CASE No. 25554 of 2024

AJAY UMESH KUMAR JAMES

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Brian D'Silva - Senior Counsel assisted by Shri Abhishek Dilraj - Advocate for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the State.

MISC. CRIMINAL CASE No. 25557 of 2024

ATUL ANUPAM ABRAHAM

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Brian D'Silva - Senior Counsel assisted by Shri Abhishek Dilraj - Advocate for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the State.

MISC. CRIMINAL CASE No. 25558 of 2024

AJAY UMESH KUMAR JAMES

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Brian D'Silva - Senior Counsel assisted by Shri Abhishek Dilraj - Advocate for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the State.

MISC. CRIMINAL CASE No. 25560 of 2024

LALIT SOLOMAN

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Brian D'Silva - Senior Counsel assisted by Shri Abhishek Dilraj - Advocate for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the State.

MISC. CRIMINAL CASE No. 25710 of 2024

FR. S.G. WILLSON

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Brian D'Silva - Senior Counsel assisted by Shri Sarabvir Singh Oberoi - Advocate for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the

State.

MISC. CRIMINAL CASE No. 25808 of 2024

MRS. EKTA PETERS

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Anshuman Singh- Advocate for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the State.

MISC. CRIMINAL CASE No. 25838 of 2024

REV. NILESH SINGH

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Anshuman Singh- Advocate for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the State.

MISC. CRIMINAL CASE No. 26019 of 2024

VINY RAJ MODI

सत्यमेव जयते *Versus*

THE STATE OF MADHYA PRADESH

Appearance:

Shri Sanjay K. Agrawal - Senior Counsel assisted by Shri Yashowardhan Jain and Shri Kapil Patwardhan - Advocates for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the State.

MISC. CRIMINAL CASE No. 26639 of 2024

MRS. L.M. SATHE

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Harshit Bari - Advocate for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the State.

MISC. CRIMINAL CASE No. 26650 of 2024

MRS. L.M. SATHE

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Harshit Bari - Advocate for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the State.

MISC. CRIMINAL CASE No. 27998 of 2024

AJAY UMESH KUMAR JAMES

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Brian D'Silva - Senior Counsel assisted by Shri Sarabvir Singh Oberoi - Advocate for the applicant.

Shri G.S. Thakur - Govt. Advocate with Shri Bramhadatt Singh - Dy. GA for the State.

ORDER

This order shall govern the disposal of all the aforesaid applications.

2. M.Cr.C. Nos. 28006 of 2024, 27770 of 2024, 24363 of 2024, 24364 of 2024, 24322 of 2024, 24418 of 2024, 25554 of 2024, 25557 of 2024, 25558 of 2024, 25560 of 2024, 25808 of 2024, 25838 of 2024, 26639 of 2024, 26650 of 2024 are first bail applications filed by the applicants under Section 439 of the Code of Criminal Procedure for grant of regular bail relating to FIR/Crime Nos.275/2024, 220/2024, 253/2024, 429/2024, 254/2024, 331/2024 dated 27.5.2024 registered at Police Stations - Belbagh, Tilwara, Bhedaghat, Madhotal, Omti, Omti, Barela, Omti, District Jabalpur respectively for the offences punishable under Sections 420, 409, 468, 471 and 120-B of the Indian Penal Code.

3. M.Cr.C. Nos. 25710 of 2024, 27998 of 2024 and 26019 of 2024

are first bail applications filed by the applicants under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail relating to FIR/Crime Nos.178/2024, 331/2024, 253/2024 dated 27.5.2024 registered at Police Stations - Bhedaghat, Barela and Gwarighat, District Jabalpur respectively for the offences punishable under Sections 420, 409, 468, 471 and 120-B of the Indian Penal Code.

4. Filtering the unnecessary details, the facts giving rise to these applications are that the Collector, Jabalpur vide communication dated 24.5.2024 issued directions to the various Government Authorities to lodge the First Information Reports against the Management of various schools, Book Sellers, who were selling books to the students of the schools, publishers of the books as well as other employees like Principal of the School. The Collector also uploaded a post on Facebook inviting parents of the students, if they had any complaints against the School Management. It was also informed through the said post that the parents can verify International Standard Book Number (for short ISBN) from the website <https://isbn.gov.in>. In response to the aforesaid, various complaints were received. Thereafter, committees were constituted, which conducted enquiry and submitted their enquiry reports and on the basis of the said enquiry reports, the First Information Reports were lodged in few cases against the Principals of various Schools and in some cases against the Management and office bearer of the Managing Committee of the Schools, book sellers and publishers.

5. These are the applications filed by the applicants, who are the members of the Management Society/Committee of the Schools.

6. It is submitted by the counsel for the applicants that the applicants are innocent and have been falsely implicated in the case.

7. It is contended that charging of fee by private schools is governed by *The Madhya Pradesh Niji Vidyalaya (Fees Tatha Sambandhit Vishayon Ka Viniyaman) Adhiniyam, 2017* (hereinafter referred to as the Act of 2017). As per the provisions of the Act of 2017, there is a process for regulating the increment in fee. There is a provision of constitution of a committee at District level for the purpose of regulating fee and related issues and if there is a charge of collecting excess fee then so fixed, as per Section 10(2), in addition to the order of refund from the concerned school, a penalty upto Rs. 2 Lakh on the Management of the private school is to be imposed where order of refund has been issued for the first time and penalty upto Rs. 4 Lakh is to be imposed where order of refund is issued for second time and upto Rs. 6 Lakh for subsequent orders of refund. It is further contended that the Act of 2017 contains no other penal provision except Section 10(2). Thus, even assuming, there is violation of the provisions of the Act of 2017, at the most Section 10(2) of the Act of 2017 would come into picture. It is further contended that the Rules have also been framed, which are known as *The Madhya Pradesh Niji Vidyalaya (Fees Tatha Sambandhit Vishayon Ka Viniyaman) Rule, 2020* in exercise of powers conferred under Section 14 of the Act of 2017 and as per Rule 3, it is the Management, which is required to submit the information with the Authorities as regards fixation/enhancement of fee.

8. It is contended that the applicants have no connection with the commission of any offence. Under *The Madhya Pradesh Niji Vidyalaya (Fees Tatha Sambandhit Vishayon Ka Viniyaman) Adhiniyam, 2017* (hereinafter referred to as the Act of 2017), no offence can be registered. Thus, the applicability of Sections 467, 468, 409, 120-B is beyond imagination. It is

contended that there is no allegation of forgery against the applicants, therefore, there cannot be any offence of cheating. It is further contended that even if there exists any recovery towards excess fee, the remedy is very well available under the Act of 2017, as the Authorities may take recourse to Section 10(2) of the Act of 2017 and also recover the amount by filing civil suit. However, the Act of 2017 does not give liberty to the respondents to lodge any First Information Report under the aforesaid provision. Thus, in view of the aforesaid arguments, it is prayed that the applicant be released on bail.

9. In M.Cr.C. Nos. 24322 of 2024 (*Bhartesh Bharil Vs. The State of M.P.*), Shri Sanjay K. Agrawal, learned senior counsel assisted by Shri Yashwardhan Jain, Advocate and Kapil Patwardhan, Advocate has contended that in the present case, the applicant is the Secretary of the registered Society namely Shri Wardhman Vidya Vihar Educational Academy and the said Society works on “Non-profit gaining” basis and the Society is also running an educational institution known as Gyan Ganga International School. The society has entered into a Master Agreement on 12.10.2022 with K-12 Techno Services Private Limited and the said company is running and managing around 92 educational institutions through the country including Gyan Ganga International School.

10. Shri Brian D’Silva, learned senior counsel assisted by Shri Abhishek Dilraj, Advocate in M.Cr.C. Nos. 28006/24, 27770/24, 24418/24, 25554/24, 25557/24, 25558/24, 25560/24, 25710/24, 27998/24 has submitted that in these cases the implication of the applicants is unsustainable. In support of the arguments, learned senior counsel has placed reliance on the decision of the Apex Court in **Mohd. Asfak Alam v. State of Jharkhand - (2023) 8 SCC 632** and submitted that the applicants be released/enlarged on bail/anticipatory

bail.

11. The counsel for the State has opposed the applications and submitted that serious allegations have been levelled against the School Management, Principal, Book Sellers and publishers etc. and since last so many years, parents of the students have been duped under the garb of enhancement of fee. Enhancement of fee in many cases is much more than 50%. There are seizure of books, which contained forged or duplicate ISBN. In order to verify ISBN, recourse is taken to ISBN search link <https://isbn.gov.in> and it was gathered that ISBN, which were mentioned in the books were not available in search link.

12. It is also submitted that pursuant to order passed by the Collector, committees were constituted, which conducted enquiries in regard to the Schools and concluded that there was enhancement in fee without there being any permission by the competent Authority and there were mentioning of forged ISBN on the books. It is contended that the parents of the students were persuaded to buy books from a particular book seller and as a result of which the concerned book sellers sold the books to the students, which contained forged ISBN. It is contended that the allegations are serious in nature, inasmuch as, no such ISBNs are available on the portal. It is, thus, clear that in the present case, there is nexus between the school Management, Principal, Book Sellers and publishers. Investigation in the matter is still going on and the role and act of each of the accused persons is still being investigated and as such at this stage, the applicant is not entitled for grant of bail.

13. Heard the submissions advanced on behalf of the parties and perused the case diary.

14. On perusal of case diary, it reflects that at the instance of the Collector, Jabalpur, the issue came in the limelight and accordingly as the parents of the students were given assurance that their identity would be secured and would not be disclosed, thus, the parents of the students have also made complaints. As per the directives, the committees which were constituted submitted their reports and as per the said reports, the First Information Reports in all the cases are almost identical and by lodging the First Information Reports, the implication is against the Principals of the School, book sellers, publishers and in some cases officials of the Management of the Schools.

15. The allegations as set out in the First Information Reports reveal that the action was taken against the Management of the School and two allegations, which find mention in the First Information Report are against the School, Management, Book Sellers and Publishers. The First Information Reports prima facie implicate the Management of the Schools and there are allegations of deriving undue pecuniary benefits and also allegations of forgery of ISBN. The allegations are against the Management of the School and though some of the applicants are claiming that they are working as Principals but as per the records, they are members of the Management Society and are in Management committee running educational institutions, therefore, *prima facie* they are connected with the affairs of the School Management. The matter is at investigation stage and the First Information Reports and the enquiry reports submitted by the Committee prima facie reflect allegations against the applicants as regards commission of offence.

16. Some of the applicants are claiming that they are working as Principals of the School as well. On perusal of record, it reflects that they are also the members and office bearers of the Management Society/Committee and

they have filed separate applications in the capacity of Principals and members of the Society, therefore, it is hereby clarified that the applications filed by the applicants who are working as the Principals only, have been allowed for the reasons mentioned in their respective orders and the bail applications filed in the capacity of members/office bearers of the Managing Committee have been rejected for the reasons mentioned hereinabove.

17. Thus, looking to the nature of allegations against the applicant, this Court is not inclined to release/enlarge the applicants on bail.

18. Accordingly, the applications are hereby dismissed.

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(MANINDER S. BHATTI)
JUDGE