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IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE  
HON'BLE SHRI JUSTICE SANJAY DWIVEDI

ON THE 19<sup>th</sup> OF MAY, 2022

**MISC. CRIMINAL CASE No. 25365 of 2022**

**Between:-**

1. **MOHAMMAD ABBAS S/O ABDUL WAHID AGED ABOUT 57 YEARS, R/O 903, BADI OMTI THANA-OMTI JABALPUR, M.P. (MADHYA PRADESH)**
2. **MOHAMMAD MEHMOOD S/O ABDUL WAHID , AGED ABOUT 49 YEARS, R/O 903 BADI OMTI JAY PRAKASH NARAYAN WARD JABALPUR M.P. (MADHYA PRADESH)**
3. **MOHAMMAD RIYAZ S/O ABDUL WAHID , AGED ABOUT 58 YEARS, R/O 903 BADI OMTI JAY PRAKASH NARAYAN WARD JABALPUR M.P. (MADHYA PRADESH)**

**.....PETITIONER**

**(BY SHRI SHASHANK SHEKHAR, SENIOR ADVOCATE WITH SHRI AMIT SINGH, ADVOCATE)**

**AND**

**THE STATE OF MADHYA PRADESH THROUGH  
POLICE STATION LORDGANJ DISTRICT-  
JABALPUR, M.P. (MADHYA PRADESH)**

**.....RESPONDENTS**

**(BY SHRI B.D. SINGH, GOVERNMENT ADVOCATE WITH SHRI VIJAY TIWARI, INVESTIGATING OFFICER)**

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*This application coming on for hearing this day, the court passed the following:*

**ORDER**

This is first application on behalf of applicants under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.

Applicants are apprehending their arrest in connection with Crime No.

892/2021 registered at Police Station Lordganj, Jabalpur District Jabalpur for the offences punishable under Sections 420, 467, 468, 471 and 34 of IPC.

As per prosecution case, the present applicants and other co-accused are office bearers and members of the society namely Abdul Wahid Education and Welfare Society which runs a school in the name and style "Little Champs School" situated at Naya Mohalla Jabalpur. It is alleged that in the enquiry made by District Education Officer at the time when application for permission to close the school was submitted it was found that the list of members of the society in Registrar of Firm and Society is different than the list submitted at the time of seeking affiliation. It is alleged that there were 12 members in the society at the time of getting affiliation including the present applicants, but in the record of firms and society only seven members were shown in the list and this difference is made for getting recognition by forging the documents and illegal gain.

Counsel for the applicants submits that applicants are unable to understand as to what offence has been committed by them and if any incorrect information was furnished at the time of seeking recognition to run the school from the State Government then at the most, affiliation can be cancelled, and even otherwise that school should have been closed by the society. It is also argued by counsel for the applicants that there is no bar that if society contains only seven members, recognition cannot be granted, and therefore, instead of seven members, lists of 12 members have been shown, whereas in the office of firms and Registrar at the time of getting the society registered, only seven members were shown. He submits that according to the allegations in the complaint made by District Education Officer, no offence is made out against the present applicants. It is further submitted that some of other co-accused

persons have already been granted benefit of anticipatory bail, therefore, applicants are also entitled to be granted benefit of the same.

Per contra, counsel for the State has opposed the submissions made by counsel for the applicants. He submits that during the course of investigation, applicants are not supporting the investigating team and not providing any documents relating to the society or the funding of the society. He submits that during the course of investigation, it is found that a huge fund has been collected by the society and that has been used in some other business by the President of the Society.

On a query being put to investigating officer he was unable to answer that when government is not providing any fund to the society to run the school and nobody has come forward to make complaint against the society then on what basis it is alleged and found that the fund of the society has been misutilized and provision of which statute is violated following consequence of an offence of respective offences in which crime has been registered against the present applicants. However, he submits that investigation is still going on and if office bearers of the society do not assist the prosecution and provide relevant documents then it is difficult to ascertain as to what crime actually has been committed by the applicants.

Considering the submissions made by counsel for the parties and perusal of the case diary, I am of the opinion that *prima facie*, present applicants are entitled to get the benefit of anticipatory bail with a condition that they would provide the information or the relevant documents relating to the offence as demanded by the investigating officer. It is made clear that if the matter is reported to the Court by the investigating team or by the State Government

about non providing any cooperation to the investigation team , the benefit of 438 granted in favour of the applicants shall be reconsidered.

Considering the overall facts and circumstances of the case and to maintain parity without commenting anything on the merits of the case, this bail application is **allowed**.

It is directed that in the event of arrest, the applicants be released on bail upon their furnishing a bail bond in the sum of **Rs.2,00,000/- (Rupees Two Lac)** each with one solvent surety each of the like amount to the satisfaction of the Station House Officer/Arresting Officer of the Police Station concerned.

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

1. The applicants will comply with all the terms and conditions of the bond executed by them;
2. The applicants will cooperate in the investigation/trial, as the case may be;
3. The applicants will not indulge themselves in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicants shall not commit an offence similar to the offence of which they are accused;
5. The applicants will not seek unnecessary adjournments during the trial; and
6. The applicants will not leave India without prior permission of the trial Court/Investigating Officer, as the case may be.

Certified Copy as per rules.

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**(SANJAY DWIVEDI)**  
**V. JUDGE**

