

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

Criminal Application [APPLN] No.19 of 2013

(The State of Maharashtra vs. Prabhu Tanbaji Rajgadkar and others)

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. A.K. Bangadkar, A.P.P. for the Applicant/State.
Mr. A.B. Moon, Counsel for Non-Applicant Nos.2, 4, 5 & 6.
Dr. Anjan De, Counsel for Non-Applicant Nos.3 & 7.

CORAM : PRASANNA B. VARALE, J.
DATE : DECEMBER 21, 2013.

Heard the learned Counsel appearing for the
respective parties.

By the present application, the applicant/State is
before this Court seeking cancellation of bail granted to the non-
applicants/accused by the learned Additional Sessions Judge in
M.C.A. Nos. 699, 704 and 705 of 2012 vide order dated
13/12/2012.

Perusal of the record shows that the offence came to
be registered at Ramnagar Police Station, District Chandrapur
against the non-applicants/accused under Sections 420, 465,
468, 471 read with Section 34 of the Indian Penal Code. The
sum and substance of the report is the accused, mostly of them
are the Government officials and working in Zilla Parishad,
Public Works Department, except one private personnel i.e. non-
applicant no.6-Prabhakar Shembalkar, by preparing fabricated
documents in respect of the tarring and renewal work of a road

road leading from Mouza Yergavhan to Kamlapur caused loss to the tune of Rs.6,61,096/- to the public exchequer.

The non-applicants submitted applications for seeking anticipatory bail before the learned Sessions Judge, Chandrapur. The applications were opposed by the learned A.P.P. before the learned Sessions Judge.

Learned A.P.P. Mr. Bangadkar submits that the non-applicants have committed a serious offence by preparing fabricated documents and caused loss to the public exchequer. Thus, it was the submission of the learned A.P.P. that on the backdrop of the allegations against the non-applicants in commission of serious offence, the non-applicants ought not to have been released by way of protection in the nature of pre-arrest bail.

Per contra, learned Counsel Mr. De for non-applicant nos.3 & 7, by inviting my attention to the order passed by the learned Sessions Judge, submits that the learned Sessions Judge, taking into consideration all the facts that the allegations in respect of causing loss to the public exchequer on the backdrop of the fact that the most of the non-applicants are the Government Officers and discharging their duties such as Deputy Chief Executive Officer or Executive Engineer or some responsible officers in the Sub-Division of Zilla Parishad, PWD, Rajura and also considering the nature of the material and the

fact that the departmental enquiry was initiated, observed that the documents may reveal the case of irregularity. The learned Sessions Judge further observed that even considering the nature of allegations that by causing forged and fabricated documents, the Government was put to loss. The material to substantiate the case of the prosecution would be the documents. The learned Sessions Judge, by observing that all the necessary material i.e. the documents, would be available for the investigation purpose and the investigating agency thus can have an access to whatever record available in the Government Department and Offices, thought it fit that the custodial interrogation of the non-applicants is not necessary. The learned Sessions Judge also imposed conditions on the non-applicants directing them to make themselves available for interrogation as and when directed by the police officials.

Learned Counsel Mr. De, by inviting my attention to condition no. (iii) in the order, submits that in view of the condition imposed upon the non-applicants, they cannot leave the jurisdiction of Chandrapur and Gadchiroli without the previous permission of the Court and as such there cannot be any apprehension that the non-applicants/accused would not be available for the investigating agency for any purpose of investigation.

On perusal of the material placed on record and in view of the observations of the learned Sessions Judge, in my opinion, there is considerable merits in the submission of the learned Counsel Mr. De for the non-applicant nos. 3 and 7. There cannot be any dispute on the fact that the case revolves around on the alleged mischief played by the non-applicants and most of them are the Government Officers. The record in the nature of communications, tenders, works orders etc. would be certainly available with the Government Offices and Department and the investigating agency can certainly have an access to that material in the process of investigation. The learned Sessions Judge have also taken care of protecting the interest of the investigating agency by imposing conditions on the non-applicants directing them to make themselves available in the process of investigation and not to leave the jurisdiction of Chandrapur and Gadchiroli Districts without the previous permission of the Court.

Considering all these aspects, in my opinion, the order passed by the learned Sessions Judge is well founded and needs no interference at the hands of this Court. The application, being devoid of merits, deserves to be rejected. The application is thus rejected.

JUDGE

**sdw*