

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1150 OF 2015

Nivratti S/o Shrirangrao Kadam

.... **APPLICANT**

V E R S U S

The State of Maharashtra

.... **RESPONDENT**

.....

Mr.M.V.Salunke, Advocate for Applicant.

Mr. A.S.Shinde, A.P.P. for Respondent - State.

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CORAM : V.M.DESHPANDE, J.

DATE : 18th MARCH, 2015

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PER COURT :

1. Heard Mr.M.V.Salunke, the learned Counsel for the applicant and Mr. A.S.Shinde, the learned A.P.P. for respondent – State.

2. The First Information Report [hereinafter referred to as ‘F.I.R.’ for the sake of brevity] is lodged against the present applicant with police station Manwat, District Parbhani vide Crime No. 7/2015 for the offence punishable u/s 406, 409 read with 34 of the Indian Penal Code.

3. The F.I.R. is lodged by Mr. P.S.Kendrekar. The sum and substance of the nature of accusation against the present applicant is that certain funds were made available to village Lohara for constructing water supply scheme based on the solar energy. According to the F.I.R., the applicant, who was the Gramsevak of that village and Member of Samiti, was expected to complete the work within two months. However, the same is not done. The allegation is that there is misappropriation of Rs. 4,04,390/- [Rupees Four Lacs Four Thousand Three Hundred Ninety].

4. The learned A.P.P. has made available to this Court the police papers. The statement of the first informant dated 03/02/2015 clearly shows that he has lodged the report against the present applicant under the threat from his superior that if the report is not lodged, then he will be placed under suspension.

5. Further, from the investigation papers it is clear, especially from the spot panchanama, that the solar panels are already installed. There exists water tank. The bills in respect of solar pump with solar panel of Rs. 2,39,766/- and the Tank for Rs. 36,000/- with other material are already part and parcel of investigation papers. In that view of the matter, it is clear that the allegation that the applicant has misappropriated Rs. 4,04,390/-, is not correct, at least *prima facie*.

6. The allegation is that the applicant was unable to perform work within two months. Be that as it may, that will

not entail any criminal action against the present applicant.

7. Hence, I pass the following order :

- (i) Criminal Application No. 1150 of 2015 is hereby allowed.
- (ii) In the event of his arrest, in connection with Crime No. 7/2015 for the offences u/s 406, 409 read 34 of the Indian Penal Code registered with police station Manwat, applicant Nivratti S/o Shrirangrao Kadam shall be released on anticipatory bail on he executing P.R. Bond of Rs. 10,000/- [Rupees Ten Thousand] with one solvent surety in the like amount.
- (iii) The applicant shall attend police station Manwat once in a week preferably on Sunday between 2.00 p.m. and 4.00 p.m.
- (iv) Criminal Application No. 1150 of 2015 is disposed of.

[V.M.DESHPANDE, J.]