

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

CRIMINAL APPLICATION NO. 1764 OF 2015.

MAHENDRA S/O KHANDERAO DESHMUKH & ORS.
VERSUS
THE STATE OF MAHARASHTRA.

Appearance =>

Mr. Mahesh S. Deshmukh, Advocate for the Applicants.

Mrs. V.A. Shinde, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 5th May, 2015.

Per Court :-

Present Criminal Application is filed by the Applicants for grant of anticipatory bail, since they are apprehending their arrest in connection with CR No.139/2014 registered with Police Station, Mukhed, District - Nanded for the offences punishable under Section.s. 420, 409, 419, 463, 462, 468, 471 read with 34 of the Indian Penal Code.

[2] Heard Mr. Mahesh S. Deshmukh, learned counsel for the Applicants and Mrs. V.A. Shinde, learned Additional Public Prosecutor for the State of Maharashtra, in extenso.

[3] Applicant No.1 Mahendra and Applicant No.2 – Mrs. Manisha are the husband and wife. Applicant No.1 Mahendra is the Sarpanch; whereas Applicant No.2 – Mrs. Manisha is the Up-Sarpanch. Applicant No.3 Sangram is the Gram Rojgar Sevak.

[4] After hearing the learned counsel for both the side and after having gone through the reply filed on behalf of the Investigating Officer, it is crystal clear that in the present Crime, role of Applicant No.2 – Mrs. Manisha is minimal one.

Further even from the reply, it is clear that no role is attributed against Applicant No.2 – Mrs. Manisha in so far as preparation of bogus and fabricated documents.

[5] In that view of the matter, I see no reason to reject the prayer made on behalf of Applicant No.2 – Mrs. Manisha to grant the anticipatory bail in her favour.

[6] In so far as Applicant No.1 Mahendra and Applicant No.3 – Sangram are concerned, Applicant No.1 Mahendra is the Sarpanch; where Applicant No.3 – Sangram is the Gram Rojgar Sevak. Their duty is to maintain the record of the Labourers, who had actually worked at the site under the Employees Guarantee Scheme (In short, 'E.G.S.').

[7] The Investigating Officer has recorded the statements of various witnesses, during the course of investigation, it is revealed that, the wages for and on behalf of Prabhu are claimed. This Prabhu died on 1st January, 2011. Further, statement of one Shankar Virbhadra is recorded which shows that, at no point of time, he had worked under the 'E.G.S.', still his name appeared at Sr.No.34 in the muster-roll.

Further the Investigating Officer has revealed in his reply that statements of other witnesses, recorded by him, shows that they were working as Anganwadi Sevika/s and they did not work under the 'E.G.S.'.

Inspite of that, their names are shown in the List and Job-Cards, prepared by Applicant No.1 Mahendra and Applicant No.3 – Sangram.

[8] Investigation papers further reveals that two Job-Cards are prepared in the name of Anganwadi Sevika's. Further there is mention of name of the person, who is dead and inspite of that, his name is appearing at Sr.No.758.

There are names of minor girls and on their behalf wages are withdrawn. Further Applicant No.1 Mahendra and Applicant No.3 – Sangram have also prepared Job-Cards of handicap persons, who are unable to perform any work; and on the basis of such job-cards, Applicant No.1 Mahendra and Applicant No.3 – Sangram both have misappropriated the amount.

[9] It is also not in dispute that it is the duty of Applicant No.3 – Sangram to prepared the Muster-Roll and Job-Cards of the Labourers, worked at the site under 'E.G.S.'. He was expected to visit the site and to prepare the Job-Cards, on the basis of persons who actually performed the work there, as a Labourer.

The role of Applicant No.1 Mahendra, being Sarpanch, it was his duty to supervise the work and satisfy any respect of employees / labourers, who actually worked at the site.

[10] Investigation papers, therefore, clearly reveals that Applicant No.1 Mahendra and Applicant No.3 – Sangram are responsible for fabricating the documents and creating false record.

[11] In that view of the matter, custodial presence of Applicant No.1 Mahendra and Applicant No.3 – Sangram is necessary for further interrogation. That leads me to pass the following order :-

ORDER

- (i) Criminal Application is partly allowed.
- (ii) Criminal Application filed by Applicant No.1 Mahendra s/o Khanderao Deshmukh and Applicant No.3 – Sangram s/o Baburao Kyadapure is rejected.
- (iii) Applicant No.2 – Mrs. Manisha w/o Mahendra Deshmukh, in the event of her arrest shall be released on anticipatory bail on she executing P.R. Bond of Rs. 5,000/- [Rs. Five Thousand.] with one solvent surety in the like amount, in connection with CR No.139/2014 registered with Police Station, Mukhed, District - Nanded for the offences punishable under Section.s. 420, 409, 419, 463, 462, 468, 471 read with 34 of the Indian Penal Code
- (iv) With this Criminal Application is partly allowed and same is disposed of, accordingly.

(V.M. DESHPANDE, J.)