

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2008 OF 2015**[Ganesh s/o Tukuram Kachane Vs The State of Maharashtra]****AND****CRIMINAL APPLICATION NO. 2262 OF 2015****[Milind Liladhar Patil Vs the State of Maharashtra]**

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

Court's or Judge's orders

Shri S.S.Patil, advocate for applicant in 2008/2015

Shri Sk.Mohammad Naseer A., advocate for applicant in 2262/2015

Shri V.H.Dighe, A.P.P. for respondent

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CORAM : V.M.DESHPANDE, J.

DATED : 29th June, 2015

PER COURT :-

1] These two applications are filed by the applicants for anticipatory bail, since they are apprehending their arrest in connection with Crime No. 16 of 2015, registered with police station Faizpur, District Jalgaon, for the offences punishable under Sections 408, 409, 468, 477 r/w 34 of the Indian Penal Code. These two applications are disposed of by the common order.

2] First informant Dilip Chintaman Shinde is the special auditor duly appointed by the Cooperative Department. First informant was asked to conduct the audit of Vividh Karyakari Seva Sahakari Society, Virode, Taluka Yawal for the years 2009-2012. Accordingly the audit was conducted.

After completion of the audit, the auditor found that there is misappropriation of Rs.21,65,520.70 Ps., and therefore, he lodged the report.

3] Perusal of the report, which is also termed as the first information report, clearly attributes specific role against Vijay Chaudhari, who is the Secretary of the said Society. The audit report and the first information report would disclose that said Vijay has misused his position as a Secretary and has granted loan in favour of those members who were already in arrears of clearing of their earlier loans. Further, it is noticed that said Secretary has taken entries in the ledger to the effect that the amount is deposited in the bank, however, no such amount was deposited in the Bank.

4] So far as present applicants are concerned, applicant Ganesh in Application No. 2008 was the Bank Inspector; whereas applicant Milind in Application No. 2262 was the Auditor. According to the investigation papers, which contain statements of various Directors of the Society, it was expected from Ganesh to point out the illegalities committed by Vijay Choudhari to the higher ups. From the investigation papers, it appears that there are no serious accusations against applicant Ganesh that he has misappropriated the amount. From the investigation papers, it appears that he has failed to discharge his duties properly. It is not in dispute that applicant Ganesh has already retired from service in the year 2013 itself.

5] So far applicant Milind is concerned, he has conducted the audit for the year 2009-10. According to the prosecution

case, being auditor he ought to have noticed the illegalities committed by the Secretary of the Society.

6] Here the court would like to mention one fact namely, another auditor by name Sanjay Chavan was also the auditor of the Society and he also conducted audit. He was also shown as one of the accused. He moved an application before the learned trial court and the learned trial court has granted anticipatory bail in favour of Sanjay. Further, investigation papers would reveal that the role of applicant Milind and role of other auditor Sanjay Chavan, who is already released on anticipatory bail by the learned trial court, is identical. Once, a discretion is exercised in favour of a person who is placed in similar circumstance, then the applicant is surely entitled for relief on the principle of parity, unless it is shown that the role of the said person is different than the role of the person who has been granted.

7] Learned Additional Public Prosecutor, from the investigation papers, submits that the role of Milind is identical to Sanjay Chavan. In that view of the matter, on the principle of parity alone, Milind is entitled to be released on anticipatory bail.

8] Applicant Ganesh is already retired from service in the year 2013 itself. He has no role remained whatsoever in nature in so far as affairs of the Society are concerned. Therefore, he is also entitled to be released on anticipatory bail. That leads me to pass following order.

ORDER

- (i) Criminal Application Nos. 2008 of 2015 and 2262 of 2015 are allowed.
- (ii) Interim order granted by this court in favour of applicant-Ganesh on 17.4.2015 and applicant-Milind on 28.4.2015 stands confirmed.
- (iii) Applications are disposed of.

(V.M.DESHPANDE, J.)

dbm/crap2008.15