FARAD CONTINUATION SHEET NO.

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

CRIMINAL APPLICATION NO. 2087 OF 2015
[Navnath s/o Dadarao Pawar Vs The State of Maharashtra & anr.]

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

Shri P.R.Katneshwarkar, advocate for applicant
Shri V.H.Dighe, A.P.P. for respondent

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CORAM : V.M.DESHPANDE, J.
DATED : 16th July, 2015

PER COURT : -

1] This is an application for anticipatory bail, since the applicant is apprehending his arrest in connection with Crime No. 33 of 2015, registered with police station Kallam, District Osmanabad, for the offences punishable under Sections 420, 468, 471, 477-A, 167 r/w 34 of the Indian Penal Code.

2] I have heard Shri P.R.Katneshwarkar, learned counsel for applicant and Shri V.H.Dighe, learned Additional Public Prosecutor for the respondent/State in extenso. Learned Additional Public Prosecutor prayed that the application be dismissed.

3] The first information report is lodged by Shri Ravindra Bapurao Bhande. The first informant is discharging his duties as Awal Karkoon at Tahsil office, Kallam. The first information report discloses that the first informant is authorized to lodge report by Tahsildar in respect of preparation of false and bogus bills in respect of work of roads at village Yearmala, Hawargaon, Shelka Dhanora during the period 2012-2013 under Mahatma Gandhi National Rural Employment and Guarantee Scheme.

According to the first information report, under the Mahatma Gandhi National Rural Employment and Guarantee Scheme, for financial year 2012-2013, works of roads at Yermala, Hawargaon, Shelka Dhanora are completed and for the said work in 2013 the bills are submitted in the Tahsil office through the Minor Irrigation Project Bhoom and Kallam. According to the first information report on 9.5.2014 it was directed to clear those bills, however, it was found that no bills were pending in the office of Tahsil.

The first information report further proceeds that no record was available in the Tahsil office in respect the technical sanction, the muster roles, even in the respective Grampanchayat also there was no record available. However, for the said works one Nishikant Gaikwad, resident of Yermala and Shrikant Bartakke of Kallam were pursuing to get the bills. According to the first information report, these two persons in connivance with the officials without there being any work done, prepared false and bogus documents and submitted the bills worth Rs.1,09,53,929/- and thereby they tried to cheat the State ex-chequer.

It is not the prosecution case that there is any factual disbursement of the afore said amount.

4] The present applicant is Awal Karkoon in Tahsil officer, Kallam.

Learned counsel for the applicant made submissions on the basis of documents available on record to show that being Awal Karkoon it is not the job of the present applicant to prepare the bills. According to him, the job of the applicant is to place the bills prepared by the appropriate authority before the Tahsildar. While placing such bills before the Tahsildar, he has to sign the said bills.

5] Learned Additional Public Prosecutor has submitted that the present applicant's signatures are noticed on the bills which were submitted to the Tahsildar.

The prosecution has filed reply in Criminal Application No. 2676 of 2015. However, according to the learned Additional Public Prosecutor Shri V.H.Dighe the said reply has to be read in all other applications including the present application.

Shri Dighe, learned Additional Public Prosecutor has also prepared a chart in respect various applicants including the present applicant to show their criminality in the matter.

In the reply filed on behalf of the investigating officer, there is no iota of any allegation against the present applicant. Further, it is not the case of the prosecution in the reply that the present applicant is responsible for preparation of the bills. Learned Additional Public Prosecutor also submitted at Bar while pursuing his prayer for dismissal of the present application that it is not the job of the present applicant to prepare the bills.

6] The applicant, in pursuance to the order passed by the learned Additional Sessions Judge, dated 7.4.2015 while rejecting his application for anticipatory bail, has appeared before the investigating officer and has joined the investigation. This assertion made by the applicant on affidavit is not at all disputed either in the reply filed by the investigating officer or by the learned Additional Public Prosecutor during the course of his arguments.

7] Looking to the fact that the present applicant is not an authority nor he is responsible for preparation of any bills and his only job is to put forth the prepared bills before the Tahsildar, merely because his signatures are appearing on the disputed bills, prima facie, he cannot be held responsible for the same, coupled with the fact that he has already joined the investigation and there is no possibility that he would run away from the course of justice. In my view, this is an appropriate case wherein the court should exercise its discretion in favour of the applicant. That leads me to pass following order.

O R D E R

(i) Criminal Application is allowed.

(ii) Applicant-Navnath s/o Dadarao Pawar, in the event of his arrest, in connection with Crime No. 33 of 2015, registered with police station Kallam, District Osmanabad, for the offences punishable under Sections 420, 468, 471, 477A, 167 r/w 34 of the Indian Penal Code, be released on anticipatory bail on he executing P.R. bond of Rs.5,000/- with one solvent surety in the like amount.

(iii) Applicant shall attend Kallam police station once in a week, preferably on every Tuesday in between 2.00 p.m. to 3.00 p.m. till the charge sheet is filed.

(iv) Criminal Application is disposed of.

(V.M.DESHPANDE, J.)

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