

FARAD CONTINUATION SHEET NO.

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

CRIMINAL APPLICATION NO. 2145 OF 2015**[Sudhakar s/o Kisanrao Fad 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 U.B.Bondar, 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 U.B.Bondar, 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 Yearimala, 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 the Sectional Engineer in the Irrigation Department, Sub-Division, Bhoom.

5] 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.

According to the learned Additional Public Prosecutor

the present applicant has prepared bogus and false bills.

6] In order to substantiate his submission, he relies on the statement of one Banshi Sahebrao Bitke, who is the typist in the Irrigation Sub-Division. His statement is available in the investigation papers. According to the learned Additional Public Prosecutor, in view of the statement of Banshi, the application of the present application is required to be rejected.

7] In the entire reply affidavit by the investigating officer, there is no whisper of any allegation against the present applicant. Perusal of the statement of Banshi Bitke, typist, in order to reach to the conclusion that prima facie the present applicant is responsible or not, shows that witness Banshi Bitke is also not sure that it is the signature of the present applicant. His statement shows as follows : -

" श्री फड एस.के., शाखा अभियंता यांचे
स्वक्षरीसारखे दिसत आहेत. "

In view of the aforesaid aspect and looking to the fact that there is no whisper of any allegation against the present applicant in the affidavit filed by the investigating officer, the said aspect has to be given due weightage.

8] Further, at the time of dismissal of the application for anticipatory bail by the learned trial court, the learned trial court directed the present applicant to appear before the investigating officer and to produce relevant documents.

In pursuance to the said direction, the investigating officer on 10.4.2015 issued notice to the present applicant. In pursuance to the said notice, present applicant appeared before the investigating officer and has filed his written explanation and also filed documents. There is no dispute on the part of the investigating officer that the present applicant has not joined the investigation.

9] Looking to the fact that there is no concrete material available on record to show that signatures on the bills and

other documents are of the present applicant only and the fact that the present applicant has also joined the investigation and has also submitted all documents with the investigating officer, which fact is not denied by the investigating officer, and further the present applicant is a Government servant and there is no possibility that he will not be available to the course of justice, in my view, the applicant has made out a case for grant of discretionary relief in his favour. That leads me to pass following order.

ORDER

- (i) Criminal Application is allowed.
- (ii) Applicant-Sudhakar s/o Kisanrao Fad, 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 Sunday in between 10.00 a.m. to 2.00 p.m. till the charge sheet is filed.
- (iv) Criminal Application is disposed of.

(V.M.DESHPANDE, J.)

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