

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

CRIMINAL APPLICATION NO. 2620 OF 2015

Shrirang Babarao Chavan and another **APPLICANTS**

V E R S U S

The State of Maharashtra **RESPONDENT**

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Mr. E.P. Savant, Advocate for Applicants.

Mr. D.V. Tele, A.P.P. for Resp. – State.

Mr. P.S. Paranjape, Advocate for father of complainant.

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CORAM : V.M.DESHPANDE, J.

DATE : 28th JULY, 2015

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PER COURT :

1] Heard Shri E.P. Sawant, learned counsel for the applicant, Shri D.V. Tele, APP for the respondent State and Shri P.S. Paranjape, learned counsel for Shri Shahurao Gaikwad, the father of the complainant.

2] The applicants are apprehending their arrest in connection with Crime No.80 of 2013 registered with Aundha-Nagnath Police Station, District Hingoli for the offences punishable u/s 420, 468, 471, 408 read with 34 of the Indian Penal Code.

3] Shri Shahurao Gaikwad, is the father of one

Tushar Gaikwad, who is presently stationed in the United States of America. Since he was having personal knowledge of the entire case, he filed an application to assist the learned APP. The said application was allowed by this Court and Shri Paranjape was permitted not only to assist the learned APP, but also to put forth the case of Shri Shahurao Gaikwad.

4] The gist of the allegation against the present applicants is that, the applicant No.1 who is retired Branch Manager of a Branch of the District Central Cooperative Bank, in connivance with the applicant No.2 has opened a bank account in the name of Tushar Gaikwad in order to misappropriate the cheque amount, which was given by the Cotton Federation for sale of cotton. Admittedly, the transaction has occurred in the year 2002. It appears from various documents available on record that Tushar was pursuing the Police authorities and ultimately, he filed a private complaint bearing RCC No. 50 of 2013 and the learned JMFC, Aundha, has already issued process against the applicant No.2 for the offence punishable under Sections 419 and 465 of IPC. The said order is questioned by the applicant No.2, by filing a revision and the said revision is pending, is the submission made by learned counsel Shri Sawant. Statement is accepted.

5] It appears that thereafter on 12.10.2013, Tushar Gaikwad filed one FIR with Police Station, Aundha Nagnath against both the applicants, in which, now, they are apprehending their arrest.

6] It is not in dispute that an enquiry was conducted by Taluka Inspector of the District Central Cooperative Bank, who has submitted a report to the Chief Executive Officer of the bank. When this matter first time appeared on board on 19th May, 2015, the learned Vacation Judge has considered the report of the Taluka Inspector of the District Central Cooperative Bank and had also observed that the entire record of the bank is already seized and is available with the Investigating Officer. It is also observed by the learned Vacation Judge while granting interim anticipatory bail that, Shri Shahurao Gaikwad has also instituted a suit for partition and separate possession in respect of the agricultural properties in which the brother of the present applicant No.2 is one of the defendants.

7] Presently, the Court is concerned with the prayer for custodial presence made by the learned Investigating Officer through learned APP for the State. Admittedly, the incident is of the year 2002. The entire record of the bank in respect of present case is already seized by the Investigating Officer. The present applicant No.1 has already retired from service and, therefore, he is not having any control over the day to day affairs of the bank. After interim order was granted in favour of the applicants by the learned Vacation Judge on 19th May, 2015, it is not the case of the prosecution that they have misused the liberty granted to them. In that view of the matter, I am of the considered view that the application can be considered favourably by imposing certain

conditions. That leads me to pass the following order.

- (i) Present Criminal Application is hereby allowed.
- (ii) In the event of arrest in connection with Crime No. 80 of 2013 registered with Aundha Nagnath police station, District Hingoli, for the offences punishable u/s. 420, 468, 471, 408 read with 34 of the Indian Penal Code, applicant No.1- Shrirang Babarao Chavan and applicant No.2 – Rajabhau Kisanrao Gaikwad, be released on anticipatory bail on their executing P.R. Bond of Rs. 10,000/- each [Rupees Ten Thousand] with one solvent surety in the like amount.
- (iii) The applicants shall attend the Aundha Nagnath police station once in a week, preferably on every Sunday between 3 p.m. to 5 p.m. till the charge sheet is filed.
- (iii) With these observations, Present Criminal Application is disposed of.

[V.M.DESHPANDE, J.]