FARAD CONTINUATION SHEET NO.

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

CRIMINAL APPLICATION NO. 2676 OF 2015
[Dhondiram s/o Hiraji Rathod 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 S.J.Salunke, advocate for applicant
Shri V.H.Dighe, A.P.P. for respondent/State

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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 S.J.Salunke, 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] It is not in dispute that the present applicant was Tahsildar of Kallam, District Osmanabad during the period from 13.5.2010 to 7.6.2013. It is reported that presently the applicant is Deputy Collector. According to the learned

Additional Public Prosecutor, the present applicant, during his period as Tahsildar, has given administrative sanction in respect of the disputed works, however, in his fairness he submitted that by giving administrative sanction to works the present applicant has not committed any crime, since in discharge of his official duty he has accorded administrative sanction.

5] The prosecution has filed reply in this 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.

6] The objection on the part of the prosecution in respect of grant of anticipatory bail for the applicant is that, on perusal of the disputed bills and according to the muster roles during the period of 28.11.2012 to 5.12.2012, 6.12.2012 to 12.12.2012, 28.6.2012 to 4.7.2012, 15.11.2012 to 21.11.2012 the signature of the present applicant is appearing, and therefore, though the works are not done he has signed the muster role.

7] The learned Additional Public Prosecutor has also placed on record the xerox copy of the first page of the muster roles for the afore said period. On those papers, one signature is appearing above the stamp Tahsildar, Kallam. On this basis, the learned Additional Public Prosecutor is opposing the application for anticipatory bail.

8] In that behalf, it has to be mentioned that the investigating officer himself has filed the report of the Tahsildar, Kallam on 30.10.2014 at Annexure R-3 to his affidavit. In the said report, at item (G) following is appearing.

"(G) हजेरीपत्रकावर तत्कालीन तहसीलदार डी.एच.राठोड यांच्या स्वाक्षरीमध्ये, तसेच कार्यालयातील उपलब्ध अभिलेख यांचे मध्ये तफावत आढळते."

9] Thus, prima facie, in view of the report by the revenue officer on the basis of available material with the revenue department, it has been pointed out that the signature appearing on the muster role is not similar to the admitted signature of the present applicant available in the other record.

10] The applicant has also given his specimen of handwriting and signature to the investigating officer which is not disputed by the investigating officer.

11] The present applicant has also joined the investigation by attending the investigating officer in view of the order passed by the learned trial court. Further, the present applicant being the Deputy Collector, there cannot be any apprehension in the mind of the prosecution that he will not be available to the course of justice. That leads me to pass the following order.

ORDER

(i) Criminal Application is allowed.

(ii) Applicant-Dhondiram s/o Hiraji Rathod, 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 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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