

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

CRIMINAL APPLICATION NO. 2704 OF 2015

1] Jayprakash s/o Tiba Patole
2] Vilas Uttamrao Patil .. APPLICANTS
Versus
State of Maharashtra .. RESPONDENT

...
Shri S.S.Patil, Advocate for applicants
Shri S.S.Shinde, APP for respondent State
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**CORAM : V.M.DESHPANDE, J.
DATED : 7TH JULY, 2015**

ORDER :-

This is an application for anticipatory bail since applicants are apprehending their arrest in connection with Crime No.33/15 registered with police station Dhadgaon, Dist.Nandurbar for offences punishable u/s. 468, 471, 477-A read with Section 34 of I.P.C.

2] I have heard Shri S.S.Patil, learned counsel for applicants and Shri Shinde, learned A.P.P. for State in extenso. The learned counsel for the applicants Shri Patil in his usual submissive way pointed out that present applicants are innocent and they are falsely implicated in the crime. He tried to impress upon the Court with the help of Gram Sabha Proceeding dated 12/6/2009 to point out that the road in between Shelkui to Deepalpada is complete and the social audit in that behalf is already there. He has also invited my attention on the various reports which according to him show that prior to 5-6

years road was completed, however, due to heavy rains, road was washed away and therefore, measurement inspection party was unable to take the measurement.

3] The first information report is lodged by Shri Valvi who is Naib Tahsildar of Dhadgaon. According to the first information report, in view of the approval order passed by Collector, Nandurbar dated 22/2/2008, Rs.44,14,426/- was allotted for the construction of road in between Deolpada to Chikhalti

It is not disputed at all by learned counsel for the applicants that the amount of Rs.44,14,426/- has been used by the present applicants who are the Sectional Engineer and a retired Deputy Engineer of the P.W.D. Thus, there is no dispute at all that the State exchequer has already caused loss of Rs.44,14,420/-. Now the question is about the existence of the road. The first information report states that on 18/11/2014 and 19/11/2014, inspection committee consisting of the Executive Engineer, the Deputy Engineer of the road project and also Assistant Engineer, Zilla Parishad, Taloda made inspection and it is noticed that at no point of time the said road was in existence.

4] The learned A.P.P. has invited my attention on the statements of the various residents of the said area which clearly show that at no point of time, the road was constructed and it was in existence. Further the present applicant himself has filed on record his explanation submitted by him to the Deputy Engineer, Road Project, Sub Division, Shahada. He has admitted that he has disbursed the salary/wages to the dead persons, however, he has deposited the amount of the said wages paid to the dead persons with the State Treasury.

5] In so far as the Gram Sabha proceedings are concerned, no importance can be given at this stage for the reason that the investigation is at very primary stage. In future during the course of investigation it will reveal about its truthfulness. Suffice to say is that the applicant himself has admitted that he has given wages to the dead persons, that substantiates the first informant to some extent. However, during the course of inspection no road was found to be in existence which is supported by statement of the respondents. Further the submission of the learned counsel for the applicants cannot be prima facie accepted on the ground that the said road is completely washed away due to heavy rains. The Court cannot be oblivious of the facts that in this area since last three years there is a severe drought, therefore, such explanation is also totally unfounded. In that view of the matter, custodial presence of both applicants will be necessary for the thorough investigation and also to look about the truthfulness about the documents which he has tried to press into service. Offence is u/s 468, 471 of I.P.C. therefore, the custody of applicants is essential. Hence application is rejected and the interim relief granted on 26/5/2015 stands vacated.

6] At this stage, learned counsel for the applicants submits that present applicants are protected since long and therefore, the interim relief be extended for eight weeks. Looking to the seriousness of the matter, the prayer is rejected.

(V.M.DESHPANDE,J.)

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