

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

CRIMINAL APPLICATION NO.3458 OF 2015

Vikas s/o Wamanrao Bharti	.. APPLICANT
Versus	
State of Maharashtra	.. RESPONDENT
...	

Shri G.L.Deshpande, Advocate for applicant
Shri D.V.Tele, APP for respondent State
...

**CORAM : V.M.DESHPANDE, J.
DATED : 21ST JULY, 2015**

ORDER :-

This is an application for anticipatory bail since the applicant is apprehending his arrest in connection with Crime No.30/15 registered with police station Himayatnagar, Dist.Nanded for offences punishable under Sections 420, 408, 409 r.w. 34 of I.P.C.

2] Heard Shri G.L.Deshpande, learned counsel for the applicant and Shri Tele, learned A.P.P. for State. Initially, one Santosh Bansi Ade who is the member of Gram Panchayat Wai lodged an application u/s 156(3) of Cr.P.C. with J.M.F.C. Himayatnagar, which was registered as Misc. Criminal Application No.19/15. Ultimately on the basis of the same, crime is registered against present applicant and one Madhukar Rathod who is the Sarpanch. The sum and substance of the FIR is that the Gram Panchayat received Rs.3 lakhs from the State Government for construction of a building known as Tanta Mukti Bhavan, however, instead of making construction, the said amount is misappropriated.

3] The learned counsel has placed various documents on record including the minutes of Gram Sabha dated 6/3/2013. Perusal of the said proceeding of the Gram Sabha shows that vide Resolution No.2 it was decided by the Gram Sabha that the Gram Panchayat has received the award of Tanta Mukti village and from the said award for development of the village various works like supply of water etc. should be done and the said resolution was passed unanimously.

4] Though the application for anticipatory bail is opposed by the prosecution, however, the learned A.P.P. was unable to point out anything from the investigation papers to show that the amount of Rs.3 lakhs were received from the Government for construction of the Tanta Mukti Bhavan as alleged by the complainant. Further though the learned counsel for the State submitted that the record is with the present applicant, he being the Gram Sevak, however, on a specific query made to the learned A.P.P. as to whether at any point of time the record was called, either by the superior of the applicant or by the investigating officer, the learned A.P.P. was unable to point out that previously any communication was addressed to the present applicant demanding the necessary record.

5] The applicant in my view has made out a case for protection in view of the specific resolution of the Gram Sabha. That leads me to pass following order :

ORDER

A] Application is allowed.

B] The applicant Vikas Wamanrao Bharti be

released on anticipatory bail in the event of his arrest in connection with Crime No.30/15 registered with police station Himayatnagar, Dist.Nanded for offences punishable under Sections 420, 408, 409 r.w. 34 of I.P.C., on he executing PR bond of Rs.5000/- (Rs.Five thousand only) with one solvent surety in the like amount.

C] The applicant is directed to attend police station Himayatnagar, Dist.Nanded twice a week preferably on every Tuesday and Thursday in between 11 a.m. to 2 p.m. and shall extend full cooperation to the investigating officer.

(V.M.DESHPANDE,J.)

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