

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

A.B.APPLICATION NO.112 OF 2015

Mahendra Dharmnath Kshirsagar ..Applicant
-Versus-
The State of Maharashtra ..Respondent

Mr.S.V.Kotwal i/b. Jayant Joseph Bardeskar for applicant
Mr.Arfaan Sait, APP for State.

CORAM : MRS.MRIDULA BHATKAR, J.

DATE : 7th April 2015.

P.C.

1] The applicant has moved this pre-arrest bail application. The accused was then Branch Engineer with Kolhapur Zilla Parishad and prosecuted for the offences punishable under section 406, 408, 420, 467, 468 of IPC in C.R.No.167 of 2014. The C.R. was registered at the instance of one Ramchandra Sakharam Mande who was working as Deputy Executive Engineer, Zilla Parishad, Kolhapur who gave a complaint on 16th December 2014 against the applicant accused.

2] It is the case of the prosecution that the applicant accused

was in charge of the construction of roads in Kolhapur district. He carried out work of roads at five different places in five different villages in Kolhapur district in the year 2012-13. At the time of inspection and enquiry, it was found that there are some variations in the notings and especially the length of the roads. It was found that the roads actually were found less in measurement than the length mentioned in the measurement book and thus, the applicant accused has claimed money for the work which was not done. The amount of such mis-appropriation was to the tune of Rs.3 lakhs.

3] When this was found, the Collector Kolhapur directed to take action against the applicant and lodged a complaint against the applicant. The learned Counsel for the applicant accused has submitted that the applicant accused has not committed any offence. He has been made a scape goat of the fight between the office bearers of two zilla parishads. It is further submitted that the road was constructed in 2012 and after two rainy seasons the measurement was taken. He submitted that the roads were not concrete roads and were kaccha roads and were damaged in parts and washed away, which has resulted in variation in measurement.

He submitted that the applicant accused is not suspended from the job. He is government servant and if at all he is taken in custody, he may lose his job.

4] Learned Prosecutor states that the custody of application is required as the prosecution suspect involvement of BDO and other lower level officers, who are subordinate to applicant.

5] Perused the report of various authorities. The applicant was granted interim protection by this court on 30th January 2015 and, thereafter, he has attended police station as directed by this Court. On query, it is found that the applicant accused is not suspended by the department, though the Collector has directed to give complaint against him. The offence committed by the accused can be investigated by directing the applicant accused to attend the police station regularly. Hence, the interim order is hereby confirmed with the following conditions.

(I) In the event of arrest, the applicant/ accused be enlarged on bail on furnishing P.R. Bond in a sum of Rs.15,000/- with one surety

in the like amount.

(II) The applicant shall not tamper with the evidence.

(III) The applicant shall not indulge into any criminal activity.

(IV) The applicant/accused shall not pressurise the complainant and other persons. The applicant shall not manipulate the office record.

(V) The applicant shall attend the concerned police station on every Thursday between 6 to 8 p.m. and on every Saturday between 10 to 12 noon initially for a period of one month and thereafter as and when called. The applicant shall cooperate with the investigating officer.

(Mrs.Mridula Bhatkar, J.)