

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 771 OF 2015

Vithal Posu Katkari. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Prashant Patil, advocate for Applicant.

Mr. S.H. Yadav, APP for State.

Mr. Sunil M. Karote, PSI, Murbad Police Station, Thane.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JULY 30, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP. Perused papers.

2 This is an application under Section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 53 of 2011 registered at Murbad police station for offence

punishable under Section 420, 406. 409 read with Section 34 of the Indian Penal Code.

3 The applicant happens to be the sarpanch of group grampanchayat, Murbad. By virtue of being sarpanch, he happens to be the president of water supply committee which was constituted under “Jal Swarajya”, a water supply scheme implemented by the Government of India. Zilla Parishad of the respective district is the implementing authority. Funds provided to Jal Swarajya scheme were not utilised properly and scheme was not being completed. Since there was no progress in the scheme, complaint is lodged by the Junior Engineer of the Zilla Parishad.

4 Perused the papers of investigation. It prima facie appears that the applicant was not the only person who could have executed or implemented the said scheme. The other co-accused have been protected by way of pre-arrest bail. The secretary of the said committed has been granted pre-arrest bail. Since the case rests upon

documentary evidence, custodial interrogation would not be imperative. By virtue of doctrine of parity and for the reasons assigned in the order dated 15/7/2015, the applicant deserves grant of pre-arrest bail.

5 It is made clear that the observations made hereinabove are restricted to an application under Section 438 of the Code of Criminal Procedure, 1973. The same shall not be considered while deciding the application for discharge or for quashing of FIR or at the time trial. The learned Trial Court shall decide the matter uninfluenced by the above said observations.

6 Hence, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- and one or two sureties in the like amount.

(iii) The applicant shall report to the concerned police station on 3/8/15, 10/8/2015, 17/8/2015, 24/8/2015 between 10 a.m. to 1 p.m. and cooperate with the investigating agency to the best of his capacity.

7 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)