

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.722 OF 2015

Pundalik Mukund Salunkhe	... Applicant
vs.	
The State of Maharashtra	... Respondent

AND
ANTICIPATORY BAIL APPLICATION NO.751 OF 2015

Nandkumar Dharma Jadhav	... Applicant
vs.	
The State of Maharashtra	... Respondent

AND
ANTICIPATORY BAIL APPLICATION NO.772 OF 2015

Sudesh Yeshwant Raut	... Applicant
vs.	
The State of Maharashtra	... Respondent

Mr. A.S. Rao i/b. Ms. Pratibha Borade, for the Applicant in ABA.No. 722 of 2015.
Mr. Subhash Jha i/b. Law Global, for the Applicant in ABA.No. 751 of 2015.
Mr. Rahul More, for the Applicant in ABA.No. 772 of 2015.
Mr. Arfan Sait, APP for Respondent – State.
IO. Kishor Sake (API), Alibag police station present.

CORAM : MRS.MRIDULA BHATKAR, J.

RESERVED ON : JUNE 17, 2015

PRONOUNCED ON: JULY 02, 2015

ORAL ORDER :

. All these bail applications are taken and heard together and so disposed of by passing the common order.

2. These three applications are moved for pre arrest bail as the applicants/accused who are the public servants, are facing prosecution for the offences punishable under Section 420, 471, 468 read with 34 of the Indian Penal Code. One Chandrakant Khot, a member of the Grampanchayat, Mapgaon, Tal. Alibag, Dist. Raigad has given the first information report against the applicants/accused for committing the offence of cheating the Grampanchayat, Mapgaon by making and using forged documents. Applicant/accused Pundlik Salunkhe is a Block Development Officer, No. 2 Nandkumar Jadhav is a Jr. Clerk and No. 3 Sudesh Raut is working as a Gram-Sevak.

3. It is the case of the prosecution that the present applicants/accused along with co-accused have prepared a forged resolution of "laying a water pipe line" from village Mapgaon-Mushet-Bahirole and accordingly they prepared bogus documents to obtain approval for the work order and gave work to one contractor who is the co-accused and is absconding. It is the case of the prosecution that the applicants/accused have tried to

misappropriate the amount of Rs. 4,90,000/- from the account of Grampanchayat, Mapgaon.

4. The learned counsels for all the applicants/accused have submitted that applicants/accused are innocent. They have not committed any offence of any nature. They all submitted that there was no actual loss of money to Grampanchayat as no amount was disbursed to the Contractor or anybody. They have not committed any forgery. They submitted that it is due to a political rivalry between two groups. These persons who are working in Grampanchayat are made victims of politics, after the assembly elections which were conducted in October, 2014 and this complaint was registered to take the credit of the social work.

5. The learned counsel for the applicant/accused Pundlik Salunkhe appearing in Anticipatory Bail Application No. 722 of 2015 has submitted that the applicant/accused has taken charge as Block Development Officer on 2nd September, 2014. On the basis of resolution, the applicant/accused wrote a letter dated 11th September, 2014 to the District Distribution Committee for the loan. He submitted that however before sending his letter, the proposal for loan of laying of the water pipe line was already sanctioned by the District Distribution Committee on 9th

September, 2014. He relied on the said letter written by the District Distribution Committee. He further submitted that the letter dated 11th September, 2014 is forged by somebody as overwriting is seen on it and somebody has mentioned the date as 6th September, 2014. He submitted that the work order is signed by him on 12th September, 2014 pursuant to the approval letter dated 11th September, 2014 sent by the District Distribution Committee. He submitted that there was a resolution of Grampanchayat dated 8th September, 2014 and he has merely acted upon the said resolution. He is innocent.

6. The learned counsel for the applicant/accused Nandkumar Jadhav in Anticipatory Bail Application No. 751 of 2015 has argued that he was working as a 'Jr. Clerk' and he has no role to play. He was supposed to process the file of the proposal as per the orders. However he did not process the file and in fact he is innocent and there is no evidence against him.

7. The learned counsel for the applicant/accused Sudesh Raut in Anticipatory Bail Application No. 772 of 2015 has submitted that applicant/accused was working as a Gram-Sevak. However, he was given the additional charge of 'Development Officer'. He submitted that there is

delay in lodging the complaint because a fraud has taken place in the month of September, 2014. He said that the letter dated 8th September, 2014 which was signed in the name of Gram-Sevak along with the resolution does not show his signature. He denied signature appearing on the said documents i.e. on page Nos. 36 to 38 of the application and somebody has forged his signatures. He states that he is innocent.

8. The learned prosecutor has vehemently opposed the applications. It is submitted by the learned prosecutor that the complaint is given by one Chandrakant Khot who was the member of Grampanchayat Mapgaon, Tal. Alibag. It is submitted that all the three applicants/accused are involved in this cheating and forgery. There was no resolution passed in the month of September, 2014 of laying of water pipe line and giving work order. It is submitted that the complainant had been to the applicants/accused about issuing of the work order. However, they avoided. In between, there was election and after the said election, on inquiry he found that laying of water pipe line from Mapgaon-Mushet-Bahirole was sanctioned on 12th September, 2014. However, the document in respect of work order which were prepared on Rs. 100/- stamp paper was bogus. The Block Development Officer has sanctioned it. The name of stamp vendor is not mentioned on it. He pointed out from that documents that the photo

copy of the resolution dated 8th September, 2014 giving approval to the water pipe line is also a bogus document because the resolution was actually never passed. The prosecution has relied on the register of the Grampanchayat proceeding earlier from January, 2014 and it is pointed out that no resolution in respect of water pipe line was taken on 24th January, 2014 in respect of resolution No. 341-14. He submitted that applicants/accused have fraudulently given this work order to one contractor for their personal benefit and have abused the power to use the amount of Rs. 4,90,000/- from the Cess fund of Grampanchayat, Mapgaon. It is argued that custodial interrogation of all the three accused is required to verify the fraud resolution and who is actually involved in this fraud and at whose instance it has been committed.

9. Perused the first information report and the documents produced by the applicants/accused and prosecution. All the applicants/accused were holding a particular post in respect of Grampanchayat, Mapgaon. At the relevant time, they were involved in the process of laying water pipe line from Mapgaon-Mushet-Bahirole. The resolution No. 341-14 by which the approval for laying water pipe line given was allegedly passed on 24th January, 2014. The reference of this date and the resolution is mentioned in the letter dated 8th September, 2014 and it was written by the

applicant/accused Sudesh Raut, a Gram-sevak. Applicant/accused Sudesh Raut was having additional charge of Development Officer. On perusal of the register of Grampanchayat and the resolution dated 24th January, 2014, it is found that there is no such mention of giving approval to water pipe line of Mapgaon-Mushet-Bahirole. The photo-copy of the alleged approval dated 8th September, 2014 appears to be a forged document. The complainant Chandrakant Khot has denied that he has ever acted as the proposer and the name of one Walmiya who has allegedly seconded the resolution, is also bogus. Thereafter the said file was processed by the applicant/accused Nandkumar Jadhav on 8th September, 2014 and on the same day applicant/accused Sudesh Raut has given the certificate of supervision. The certificate of availability of the land is also given by the applicant/accused Sudesh Raut. The said file was further processed by the applicant/accused Nandkumar Jadhav who was supposed to verify and then process. The applicant/accused Nandkumar Jadhav did not verify the same though it was his duty to do so. The submission of the learned counsel of the applicants/accused Pundlik Salunkhe that at the relevant time the applicant/accused Pundalik Salunkhe was in-charge only for a short time and therefore he can not be held responsible, is not convincing. So also the submission that the approval was already given by the earlier Committee before he signed it, can not be accepted. The work order which

was given discloses that nobody has signed for the Chairman Sanket Majoor Sahkari Sanstha. Moreover, the contents in the said contract *prima facie* completely put the liability on the Grampanchayat. It shows adverse to the interest of Grampanchayat. The applicant/accused Pundlik Salunkhe has signed the same who was supposed to protect the interest of Grampanchayat.

10. Thus the offence is committed by the applicants/accused who were holding the position as a “Public Servant” at the Grampanchayat and they have committed fraud and forgery with the Grampanchayat. I am of the view that considering the seriousness of the offence, the applicants are not entitled for pre arrest bail.

11. Hence, rejected.

12. The learned counsel for the applicants in anticipatory bail application Nos. 722 of 2015 and 751 of 2015 submitted that they want to challenge this order before the Hon’ble Supreme Court and hence requested to continue the interim protection granted earlier for six weeks.

13. The learned prosecutor opposed this prayer.

14. As the applicants in anticipatory bail application Nos. 722 of 2015 and 751 of 2015 wants to challenge this order before the Hon'ble Supreme Court, the interim protection granted earlier to continue for four weeks, i.e. till 2nd August, 2015.

15. In anticipatory bail application No. 772 of 2015 interim was not granted and as this matter was tagged along with anticipatory bail application Nos. 722 of 2015 and 751 of 2015 for hearing, the learned counsel did not press for interim protection. The applicant/accused as on today is without protection. The learned counsel wants to challenge this order of rejection before the Hon'ble Supreme Court. In view of the interim protection granted to applicants/accused in anticipatory bail application Nos. 722 of 2015 and 751 of 2015, this applicant/accused is also granted interim protection till 2nd August, 2015 on the following terms and conditions :

- a) In the event of arrest, the applicant/accused shall be released on bail upon furnishing P.R. Bond in a sum of Rs. 15,000/- with one or two sureties in the like amount.
- b) The applicant shall not indulge into any criminal activity, while on bail.

- c) The applicant shall attend the concerned police station on every Monday between 10 am to 11 am.

(MRS.MRIDULA BHATKAR, J.)