

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [ABA] No. 586 of 2015
[Chandrakant Krushnarao Bhoyar Vs. State of Mah.]
AND
Criminal Application [ABA] No. 589 of 2015
[Ashok Sudarshan Ragirwar Vs. State of Mah.]

**Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.**

Court's or Judge's orders

Criminal Application [BA] No. 586/15 :

Mr. S.V. Sirpurkar, Adv., for the Applicant.
Mr. S.S. Doifode, APP for respondent.

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Criminal Application [BA] No. 589/15 :

Mr. S.V. Sirpurkar, Adv., for the Applicant.
Mr. S.S. Doifode, APP for respondent.

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CORAM : A.B. CHAUDHARI, J.

Reserved on : 21st December, 2015.

Pronounced on : 23rd December, 2015.

01. The Applicant Chandrakant Krushnarao Bhoyar in Criminal Application [ABA] No. 586 of 2015 is a Civil Contractor, who apprehends arrest in Crime No. 32/15 registered with Korchi Police Station, Korchi, Distt. Gadchiroli, for the offences punishable under Sections 409, 420 and 477 read with Section 34 of Indian Penal Code,

02. In all, works at Gyarapatii, Korchi, Maseli and Kotgul in the district of Gadchiroli for Ashram Schools were to be carried out, and the actual expenditure that was made was Rs.70,65,522-00. The contractors, who were appointed to execute these works in these applications, were the applicants [1] Chandrakant Bhoyar at Korchi [Criminal Application No. 586/15], and [2] Ashok Sudarshan Ragirwar [Criminal Application No. 589 of 2015] at Maseli and Kotgul. The First Information Report was lodged by the Executive Engineer, Water Supply Department, Zilla Parishad, Gadchiroli, reporting that though the works were not done, huge amounts were paid to the contractors and, therefore, there was misappropriation and so on and so forth. It is after registration of crime, these applicants have approached this Court.

03. During the course of hearing of these applications on various occasions, the counsel for the applicants stated that though works were done as per the materials, on the basis of which FIR was lodged by the concerned Engineer, those have not been considered. Looking to the said submission, on 8th December, 2015, this Court made an order asking the concerned Superintending Engineer, Public Works Department, Govt. of Maharashtra, Gadchiroli, to immediately visit all the four places and prepare a detailed report as to the works done by the applicants from March, 2014 to December, 2014, and submit a report on 15th December, 2015.

04. The report has accordingly been received from the said Superintending Engineer, Public Works Department of Govt. of Maharashtra. This Court highly appreciates the efforts made by the Superintending Engineer, Public Works Department, Govt. of Maharashtra, in carrying out the visits to all the four places and presenting an Enquiry Report with all details. The said Officer must have worked very hard for preparing this report after visiting the places.

05. Now, as per the said report, it is seen from the Superintending Engineer's conclusions that Chandrakant Krushnaraao Bhoyar has not done the works in the sum of Rs.60,735-00 and he completed the works of Rs. 19,00,539-00 out of a total expenditure of Rs. 19,61,274-00 done upto 31st March, 2014. That means, the difference is only Rs.60,735-00. But then his account, which has been frozen, has Rs. 3.50 lakhs and, therefore, I think, the interest of public exchequer is properly taken care of.

06. The difference of Rs. 60,735-00 in a work of around Rs. 20 lakhs is, in a sense, marginal and prima facie there is reason to believe that he has not acted criminally so as to disentitle him from the relief of anticipatory bail.

07. In so far as the Applicant Ashok Sudarshan Ragirwar [Criminal Application No. 589 of 2015] is concerned, the work at Maseli is shown to be deficient

by the valuation of Rs.7,43,379-00. The total expenditure made was Rs.17,38,341-00 and the works done are only of the value of Rs.9,94,962-00. However, during the course of hearing, it has been pointed out that the item worth Rs.1,21,499-00, of which work was admittedly done, has not been included as the valuation in the work done. I have checked the record and I find that there is a merit in the submission. Consequently, the balance amount of which the work is said to have not been done, comes to Rs. 6,21,880-00. The frozen amount, as contended by the learned counsel for the applicant, is to the tune of Rs. 4.35 lakhs. In that view of the matter, the interest of the public exchequer is taken care of. The balance amount of Rs.1.50 lakhs can be worked out at the appropriate stage, particularly because in the other work at Mouza Kotgul executed by him, the applicant had constructed a sump worth Rs. 2,79,000-00 and adding the said amount to the work at Mouza Kotgul, it appears that the adjustment of this balance amount of Rs. 1.50 lakhs can easily be made. At any rate, the frozen amount being Rs. 4.35 lakhs, the interest of the public exchequer is well guarded. In his case also, prima facie, he is entitled to grant of anticipatory bail. In the result, I make the following order:-

ORDER

Rule is made absolute in terms of the interim orders made by this Court on 6th

November, 2015 in both these Criminal Application [ABA] Nos. 586 and 589 both of 2015.

Judge

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