

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [BA] No. 929 of 2015
[Sagar Sharad Mankar 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

Mr. S.A. Ashirgade, Adv., for the Applicant.
Mr. S.S. Doifode, APP for respondent.

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CORAM : A.B. CHAUDHARI, J.

Date : 23rd December, 2015

Learned counsel for the applicant prays for withdrawal of this application.

The prayer is rejected, since this application was heard at a great length.

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01. The Applicant, a Junior Engineer working with Zilla Parishad, Gadchiroli, was arrested on 4th November, 2015 in Crime No. 32/15 dated 23rd October,

2015, registered with Korchi Police Station, Distt. Gadchiroli, for offences punishable under Sections 409, 420 and 477 (a) read with Section 34 of Indian Penal Code. This is an application for grant of bail in the said crime.

02. The Executive Engineer, Rural Water Supply Department, Zilla Parishad, Gadchiroli, lodged an FIR with Police Station, Korchi, on 23rd October, 2015, stating therein that in the four villages where Govt., Tribal Ashram Schools are located, for implementation and execution of Water Supply Scheme to those schools, tenders were floated. The applicant working as a Junior Engineer and one Shri Ravindra Vitthalrao Parate, the Deputy Engineer, and In-charge Executive Engineer – Sudhir Mukundrao Dewikar and Amol Vishwas Ramteke were officers responsible for carrying out the said works under their supervision and for making measurements of the works and then making payments to the contractors. The payments of the running bills were to be made only after completion of the respective works; but these officers in collusion with each other and the contractors made the entire payments to the contractors, leaving balance a paltry sum of around Rs.1 lakh and odd in respect of each contractor. Since the complaints were received from the Zilla Parishad Members about the total fraud by the contractors and these officers in execution of works, a Committee was constituted by the Chief Executive Officer which conducted a personal inspection of all sites and found that the works were not actually

carried out and there was a huge misappropriation of money, prima facie, to the tune of Rs. 35,66,312-00 and, therefore, it was necessary to lodge an FIR with the concerned Police Station. After the FIR was lodged, the present applicant Sagar Mankar was arrested, and is in jail. In so far as other applicants-engineers - Ravindra Parate, Sudhir Dewikar and Amol Ramteke are concerned, they have filed applications for grant of anticipatory bail before this Court in the said crime.

03. In support of the present bail application, Mr. Ashirgade, learned counsel for the applicant, vehemently submitted that the applicant was arrested and his police custody remand was obtained and thereafter he has been sent to magisterial custody and investigation is almost completed. According to him, further detention of the applicant in jail is wholly unnecessary and, therefore, the applicant should be released on bail and he is ready to abide by such conditions as are deemed fit and proper.

04. Per contra, learned Addl. Public Prosecutor supported the impugned order made by the learned Trial Judge rejecting the application for bail and invited my attention to the reply filed by the respondent-State. He submitted that the applicant and other officers along with contractors have indulged in misappropriation of Govt., money and there is a criminal conspiracy amongst all these officers and contractors in causing loss to the Govt., and misappropriation of Govt., money. He

submitted that the applicant and the officers have not even thought of the fact that the tribals in Gadchiroli district where Govt., Ashram Schools are established, have a right to the basic facilities, namely water etc. But the applicant and the other officers have grabbed even the share of the tribals which they have been provided by the Govt. The learned APP invited my attention to various paragraphs of the reply and contended that amongst all the officers, the applicant Sagar Mankar has made a unique record, - in that he took the bribe from the contractor by a cheque in the sum of Rs.4,00,000-00, which was ultimately deposited in his account.

05. I have perused the entire record, so also the reply and investigation papers shown to me by the learned APP.

06. It is necessary to quote the following paragraphs from the reply filed by the respondent-State. Hence I quote paragraphs 5 [sub-para thereof], 9,10,11,12 and 16 which read thus:-

“5.
.....

It is specific allegations that, the accused persons in collusion, though the work was not completed as per the estimated work, made entries in the measurement book as work done. The Running bills were prepared by the Junior Engineer, inspected by Deputy Engineer and same was sanctioned by Executive Engineer and finally the cheques were issued and encashed by the contractor

before 31.03.2014. That finally the inquiry committee found that the accused persons have committed total misappropriation of Rs.35,66,312/-."

"9. That during the course of investigation the investigating officer revealed that, the contractors have not completed the work as per plan and estimation but the entries in measurement book were taken as work done. That the accused persons were having intention to deceive since inception, the junior Engineer prepared the running bills, which was duly inspected by Deputy Engineer and same was sanctioned by Executive Engineer. Finally the cheques were issued and encashed by the contractors. The following are the details of cost of work, amount of running bills paid to contractors and outstanding balance.

Ashram School	Estimated cost	Amount paid to the contractors	Balance
Gyarapatti	18,91,118/-	17,87,894/-	1,03,224/-
Kotgul	18,86,702/-	16,55,008/-	2,31,694/-
Korchi	19,41,874/-	19,61,274/-	[19400/-] Excess paid to contractor.
Maseli	18,95,513/-	17,61,571/-	1,33,942/-

"10. That during the course of investigation the investigating officer has revealed that, the Executive Engineer namely Ravindra Parate in collusion with contractors, i.e., Ashok Ragiwar, Chandrakant Bhoyar and Sharik Pathan issued tender in favour of contractors."

"12. That during the investigation it was further revealed that, certain financial transactions were took place between the present applicant and arrested accused Sagar

Mankar Junior Engineer, which clearly spell out the collusion of accused for committing the present crime.”

“16. That the investigation in the present crime is at preliminary stage. The present applicant is beneficiary and gained wrongfully. Further instant crime is comes under the category of economic offence. It is submitted that Rs.4 lakhs were transferred by the accused Shakir Pathan who is contractor in the account of present applicant. It is submitted, that the said amount is still not seized from the applicant.”

07. Upon reading of the above paragraphs in the reply and the investigation papers, I find that the present applicant Sagar Mankar is clearly guilty of cheating the Govt., misappropriating the Govt. money, that too for the developmental works carried out for the tribals in the district of Gadchiroli. The State Govt. posted the present applicant and others with a hope and trust that these officers would sincerely and honestly work for the amelioration and welfare of tribals by way of “Sevabhav” to earn the blessings from the tribals. However, the applicant, instead of earning blessings, in conspiracy, appears to have decided to earn money at the cost of the tribals. This is how the Govt. schemes meant for poor and tribals in the backward areas like Gadchiroli are made to fail by the bureaucracy.

08. The present applicant has made somewhat a strange record by accepting the bribe by cheque and depositing the same in his bank account, and para 6 of

the reply shows that the contractor Shakir Pathan transferred an amount of Rs. 4 lakhs in his personal account and it could not be yet frozen by the Police. In addition, Shakir Pathan states that he paid Rs. 7 lakhs by 'Self' cheques.

09. This Court is taken aback that the Govt. Servants, like the Applicant, have now started taking bribe by cheques from the contractors. The Sixth Pay recommendations were implemented by the Central Govt., State Govt., and all other allied institutions for making payments of salaries to them as per the recommendations of the Pay Panel. That time, it was hoped by one and all that looking to the decent hike in the salaries of Govt. servants by virtue of the Sixth Pay recommendations, the corruption would remarkably come down. Now, at the end of the decade and on the verge of incoming Seventh Pay recommendations, the picture is gloom and doom. It is seen that these Govt. Servants and other servants in the allied institutions have made records and records in the matter of corruption without bothering about the effect on the economy, poor and the tribals. Those who perform the same or more work in private sector get too less salary.

10. The corruption in the Govt. sector has in the last decade assumed the magnitude beyond one's imagination and the aspirations of the people that the Govt. servants would be more than happy with the salaries as per the Sixth Pay recommendations and

would not indulge in corruption proved to be a forlorn hope and hoax. The corruption has now become a “Hydra-headed monster” which is in Greek mythology the nine-headed serpent of Lerna, which grew two heads for each that was cut off. Now, there is hardly any hope for the people with the past experience that the Govt. servants and the allied servants would stop indulging in corruption. Added to all this, now the recommendations for payment of salaries as per the Seventh Pay Commission have been received by the Govt., which are to be made applicable from 1st January, 2016. Undoubtedly, the salaries of the Govt. servants and allied servants would increase again without any guarantee of cessation of corruption. That apart, the salaries of the similar class of employees working in private sector and the other sectors compared to the Govt. servants and allied servants, though they perform far better, would be abysmally low and the disparity between the salaries of Govt. servants on one hand and those working in private sector on the other hand would be awfully wide and is bound to create commotion in the minds of one and all. In my opinion, this would be a disturbing picture in the present scenario and, therefore, in the light of the past experience, it would be risky to apply the recommendations of the Seventh Pay Commission to the Govt. servants and the allied servants, and the same should not be applied.

11. Be that as it may, at any rate, I do not find any merit in this application. Before parting, I find that the

Anti-corruption Bureau ought to have stepped in the present matter or the Police Station Officer, Korchi, ought to have registered an offence under the relevant provisions of Prevention of Corruption Act against all these officers; but that has not been done which is required to be done now. Hence the following order:-

ORDER

- [a]** Criminal Application [BA] No. 929 of 2015 is rejected.
- [b]** Police Station Officer, Police Station, Korchi, Distt. Gadchiroli, is directed to find out if the offences under the Prevention of Corruption Act against the applicant and others can be added.

Judge

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