

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.118 OF 2016

Madhukar s/o Baburao Vaidya,
Age: 43 years, Occ: Service,
R/o. Tirupati Colony, Pangri Road,
Beed, Tq. & Dist. Beed.

...Applicant

versus

State of Maharashtra
Through Investigation Officer,
Police Station, Kadim Jalna, Jalna,
Tq. & Dist. Jalna.

...Respondent

.....
Mr. S.S. Tope, Advocate for applicant
Mr. S.J. Salgare, A.P.P. for respondent
.....

WITH

CRIMINAL APPLICATION NO.6872 OF 2015

Ashok s/o Eknath Khandare,
Age: 51 years, Occ: Service,
R/o. Saletax Colony, Ambad Road,
Jalna, Tq. & Dist. Jalna.

...Applicant

versus

State of Maharashtra
Through P.I. Kadim Jalna Police Station,
Tq. & Dist. Jalna.

...Respondent

.....
Mr. A.M. Hajare, Advocate for applicant
Mr. S.J. Salgare, A.P.P. for respondent
.....

CORAM : N.W. SAMBRE, J.

DATE : 28th JANUARY, 2016

ORAL ORDER :

Both the applicants are seeking regular bail in Crime No. 80 of 2015 for the offence punishable under Sections 409, 420, 120(B), 109 read with Section 34 of the Indian Penal Code and under Sections 13(1)(C) read with Section 13(2) of the Prevention of Corruption Act.

2. Learned Counsel for the applicants, based on present status of the case, would urge that further detention of the applicants is not necessary, as the charge sheet in the matter is already filed. Learned Counsel for the applicants would then urge that the amount that was withdrawn from the account of statutory Corporation was upon pressure from the Chairman and Managing Director, who are also accused. Learned Counsel for the applicants would try to substantiate from the record that each of the amount withdrawn from the account was handed over to Chairman. According to them, since the amount was not utilized which was kept in the custody of the applicants after withdrawal, no criminal intention could be attributed to the applicants in the matter of commission of crime in question. Learned Counsel for the applicants would also submit that since the

applicants are public servants, they have respect for law and will not run away.

3. Learned A.P.P. opposed the applications on the ground that the applicants were instrumental in withdrawing the amount in crores from the account of Corporation, which was never part of their official duty. He would submit that the applicants have acted in aid of main accused Chairman and Managing Director by withdrawing the amount in cash. He would then urge that there is strong *prima facie* case against the applicants.

4. Perused the charge sheet and statements. It is to be noted that it was never part of official duty of the applicants to withdraw the amount in cash from the account of Corporation. The manual prescribed for only account payee transaction and applicants have withdrawn the amount in cash from the account of Corporation contrary to their official duty and have embezzled the same.

5. In that view of the matter, as there is strong *prima facie* case against the applicants, both the applications fail, stands rejected.

[N.W. SAMBRE, J.]