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

CRIMINAL APPLICATION NO. 1755 OF 2016

Vishwambhar Vithal Singanwad ..APPLICANT

VERSUS

The State of Maharashtra & anr. ..RESPONDENTS

Mr R. B. Narwade Patil, Advocate for applicant;
Mr S. D. Ghayal, Addl. Public Prosecutor for respondents

CORAM : N.W. SAMBRE, J.

DATE : 17th June, 2016

ORDER :

The applicant, who is a Deputy Engineer, Sub Division, PWD, Biloli, District Nanded, employed by the Zilla Parishad, is seeking his release on pre-arrest bail, in connection with Crime No. 33 of 2013, registered with Mukramabad Police Station, Tq. Mukhed, Dist. Nanded, for the offences punishable under Sections 420, 409, 417, 419, 462, 463, 467, 468, 471 read with Section 34 of the Indian Penal Code.

2. It is the case of the present applicant that the applicant cannot be held responsible for the issuance of job cards to the dead persons or the persons who are not qualified or entitled. According to him, under the duty entrusted to him, he is a work executing authority and as such, should not

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be held responsible as he has not committed any offence in crime in question.

3. Learned Counsel appearing on behalf of the applicant would rely upon provisions under Section 27 of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005, so as to submit that it is the Ombudsman, who is required to deal with the complaint first and then lodge a first information report after found any fraud, is practised. Learned Counsel, while relying upon circular of the State Government dated 25th May, 2015, would submit that mechanism is already provided to that effect by the State Government. He would then submit that under various circulars and instructions issued by the Central Government and the State Government, the authority to issue job cards, is with Grampanchayat and as such, the applicant cannot be held responsible in crime in question.

4. Learned Additional Public Prosecutor, while opposing application, would submit that there are in all twelve offences registered in two different police stations on similar set of facts and events. According to him, out of these crimes, in three of them, the applicant moved an application for pre-arrest bail, which was withdrawn unconditionally.

5. In addition, he would submit that in one matter, closure was ordered as no evidence was found against present applicant. He would then urge that the applicant has admitted that the duty of the applicant is to execute the work and the persons who are already employed elsewhere or who are

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dead, were shown for execution work.

6. In the above referred background, he would submit that there is strong prima facie case against present applicant about his involvement in crime in question.

7. Having considered rival submissions, it is required to be noted that the applicant, who is a public servant, has admitted that he is a work executing authority and the people who are cited dead and who are already employed elsewhere were shown to be as worker. It is then required to be noted that, though the issuance of job cards, is not responsibility of the applicant, the least that was expected of the applicant that to verify the identity of persons-labours, who are employed in execution of work and to whom wages were paid from the public exchequer.

8. Apart from above, it is to be noted that Section 27 of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005, has hardly any bona fide to the applicant, as statute is not taken as a right to any individual to file complaint under Section 156(3) of the Code of Criminal Procedure, as has been done in the present case. What is apparent from the complaint that the complainant is a Doctor and he and his family members were shown to be employed as labour in alleged work.

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9. In the above background, and having regard to the fact that the previous bail applications were already withdrawn on similar facts by the applicant, no case for grant of pre-arrest bail is made out. Criminal Application fails and same stands rejected.

(N.W. SAMBRE, J.)

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