

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1840 OF 2016

Surekha D/o Namdeo Shewale .. Applicant

Vs.

The State of Maharashtra .. Respondent

AND

CRIMINAL APPLICATION NO. 1771 OF 2016

Janabai D/o Ramrao Phad .. Applicant

Vs.

The State of Maharashtra .. Respondent

.....

Mr. S.S. Gangakhedkar, Advocate for applicant(1840/2016)

Mr. P.D. Bachate, Advocate for the applicant (1771/2016)

Mr. A.S. Shinde, APP for the respondent-State

.....

CORAM : N.W. SAMBRE, J.

DATE : 28/06/2016

ORAL ORDER :

Heard.

2. Both these applicants are seeking pre-arrest bail in Crime no. 25 of 2016 registered at Loha Police Station, Dist. Nanded for the offences

punishable under section 420, 409 r/w. 34 of the Indian Penal Code. Period of offence is from 1/4/2012 to 1/4/2013.

3. So far as the applicant – Surekha D/o Namdeo Shewale is concerned, she was transferred on 22/2/2012 and till then she was holding the charge of post of Gramsevak. So far as another applicant – Janabai D/o Ramrao Phad is concerned, it is after the transfer of Surekha Shewale, she has taken over the charge. The period of defalcation, as is alleged in the FIR is from 1/4/2012 to 1/4/2013, which more particularly is stated in the FIR in relation to the beneficiaries i.e. four Gaikwad, is from 1/4/2012 to 31/04/2012.

4. Learned A.P.P. submits that the said period is incorrectly mentioned and the period of defalcation in relation to the beneficiaries – four Gaikwad, was 4/5/2011 to 14/6/2011.

5. While trying to make out a case for grant

of pre-arrest bail, learned counsel for the applicants would submit that the applicants are no way responsible for the crime in question. Learned counsel for the applicants then would urge that it is for the stale incidents, based on the enquiry report submitted by the Sub-District program Co-ordinator, Zilla Parishad, Nanded under the Mahatma Gandhi National Rural Employment Guarantee Scheme, the applicants are roped in as the accused.

6. Perusal of the FIR depicts that the applicant – Surekha D/o Namdeo Shewale is claimed to have paid an amount of Rs.10,978/- to in all four beneficiaries, who have lodged complaint with the competent authority, stating that they have never worked under the scheme in question and the amount towards the wages was withdrawn from public exchequer and was shown to be paid to them through their accounts in the post office. The enquiry report in relation to the above issue speaks that the record of the post office was already destroyed

and there is no material available to confirm that the amount was paid to these accused persons.

7. Learned counsel for the applicants then would urge that so far as another accused, namely, Janabai D/o Ramrao Phad is concerned, the period of defalcation is prior to her taking over charge as Gramsevak and as such she is no way concerned with the offence in question.

8. Learned A.P.P. opposed the applications on the ground that there is sufficient material available on record to depict that the accused – Surekha Shewale is very much involved in the crime in question. It is also clarified that after the accused – Janabai Phad has taken over the charge after the period of alleged crime. He would then rely upon the enquiry report and other material to demonstrate that the applicant – Surekha Shewale is prima faice involved in the offence.

9. Having bestowed thoughts to the submissions

advanced, it is to be noted that the period of alleged misconduct is from 4/5/2011 to 14/6/2011, as is stated by the learned A.P.P. During the said period, admittedly, applicant – Surekha Shewale was holding the post of Gramsevak.

10. What is brought to the notice of this Court, is the enquiry report dated 01/01/2016, in which though the applicants are not named specifically, however, the Gramsevak, Gram Rojgar Sevak, Sarpanch and the Postmaster are held responsible for payment of Rs.10,978/-. The enquiry report then depicts that no material from the post office is available to confirm that the amount for the alleged period, has gone to the beneficiaries (four Gaikwad).

11. Apart from above, it is to be noted that the amount, as has been claimed to have been disbursed to the said beneficiaries, though is shown to be paid to them, appears to be under the

signatures of such beneficiaries and for that purpose, documentary material is also available, as is placed by the learned counsel for the applicants on record.

12. Both the applicants are female and public servants. In view thereof, in my opinion, the custodial interrogation of the applicants is not necessary. Hence, the following order :-

13. In the event of the arrest of the applicants in Crime no.25 of 2016 registered with Loha Police Station, Dist. Nanded for the offences punishable under section 420, 409 r/w. 34 of the Indian Penal Code, they be released on bail upon their executing P.R. bonds in the sum of Rs.15,000/- (Rs. Fifteen Thousand) each with one surety each in the like amount.

14. Applicant - Surekha D/o Namdeo Shewale shall attend the concerned Police Station from 1st July, 2016 to 4th July, 2016 between 10 am and 12

noon and, thereafter, as and when called by the Investigating Officer.

15. Since applicant — Janabai D/o Ramrao Phad is informed to have underwent delivery, she is exempted from appearance before the Investigating Officer for a period of eight (8) weeks, however, subsequent thereto, the Investigating officer will be at liberty to summon her presence, as and when necessary.

16. The applicants shall not tamper with the prosecution evidence.

17. Applicant — Surekha D/o Namdeo Shewale volunteers that the amount of Rs.10,978/-, as claimed to have been defalcated, will be deposited with the concerned Gram Panchayat, within a period of two (2) weeks from today.

18. Amount of Rs.10,978/-, deposited by the applicant — Janabai D/o Ramrao Phad, be transferred

to High Court Advocates' Bar Association Library,
Aurangabad, as volunteered by her.

19. Both Criminal Applications stand disposed
of accordingly.

[N.W. SAMBRE]
JUDGE

arp/-