

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

CRIMINAL APPLICATION NO. 2559 OF 2015

**VENKATRAO S/O MASNAPPA NAIK
VERSUS
THE STATE OF MAHARASHTRA &**

**...
Advocate for Applicant : Deshmukh Rajendra S.
APP for Respondents: Mr.U.S.Mote**

**CORAM : N.W.SAMBRE,J.
DATED : 12TH JANUARY,2016**

PER COURT :-

Pursuant to the complaint under Section 156(3) of Cr.P.C. initiated by one Shrikant Kale alleging the mismanagement in implementation of the employment scheme under National Rural Employment Guarantee Act, 2005, the applicant was shown to be an accused who was Sarpanch from 15/11/2010. The allegations in the complaint against applicant are that certain persons who were either unable to work as labours or who were expired, were shown to have been hired for the purpose of executing development scheme,.

2] Pursuant to the complaint filed before learned JMFC, offence came to be registered against the applicant.

3] It is the case of applicant that he is falsely involved in Crime No.2/15 punishable u/s 420, 409, 417, 419, 463, 462, 468, 471 r.w. 34 of IPC.

4] Learned counsel for the applicant while trying to make out case for grant of bail would urge that time and again postal authorities have certified that the amount as is claimed to have been released by the applicant in favour of the labours who were hired, was in fact not released. So as to substantiate his contention, he has relied upon communication to that effect issued by the Block Development Officer of the Panchayat Samiti and that of postal authorities also. The applicant then submits that in this background, the applicant has no responsibility whatsoever as alleged, as the amount is not disbursed to the concerned claimants.

5] The learned APP would urge that the muster roles which depict the employment of the labour is not submitted by concerned Block Development Officer and the village Panchayat Officer, as such, according to him, the indepth investigation as against applicant is necessary by way of custodial interrogation. The APP then would urge that apart from what has been narrated in the complaint, there are other instances where the applicant has made payment to the

bogus workers or by preparing bogus job cards. According to him, the custodial interrogation of the applicant is necessary and prayed for dismissal of the application.

6] Upon bare perusal of the FIR and the other papers as are placed on record, it is required to be noted that there is no individual responsibility on the present applicant particularly in the capacity of Sarpanch in the background of provision of Section 16 of the National Rural Employment Guarantee Act, 2005. Apart from above, the fact remains that on the record, there are communications issued by the postal authority and the Block Development Officer that the payment to the concerned persons who are allegedly named in the complaint case was not released to the concerned persons.

7] Apart from above, this Court by detail order has called upon investigating officer to place on record material depiction prima facie involvement of the applicant in the crime in question particularly in the light of above material on the record.

8] From the record, as it is already discussed hereinabove, since prima facie involvement of the applicant in the commission of the crime in question is not made out, particularly in view of the various certificates, in my opinion, it will be appropriate to release the

applicant on pre arrest bail. Apart from above, it is also required to be noted that the muster roles of which the present applicant is not in custody of, the investigating officer cannot claim that the applicant's custodial interrogation is necessary so as to seize the muster role. As such application stands allowed.

9] The applicant be released on pre arrest bail upon furnishing PR bond of Rs.15,000/- with one solvent surety in the like amount. He should attend concerned police station from 18th to 22nd January 2016 between 10 to 12 a.m. and thereafter as and when called.

(N.W.SAMBRE,J.)

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