IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

3 CRIMINAL APPLICATION NO. 3536 OF 2016

SUBHASH S/O RAJANNA TATTARI

VERSUS

THE STATE OF MAHARASHTRA
& ANR.

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Mr. R.S.Deshmukh, Advocate for Applicant.

Mrs. V.N.Patil (Jadhav), A.P.P. for R – 1 - State.

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CORAM : A.M.BADAR, J.

DATE : 7th SEPTEMBER, 2016

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PER COURT :

1. The applicant/accused in Crime No. 10/2016 registered at Naigaon police station, Dist. Nanded for the offences punishable U/ss 420,468,471 of the Indian Penal Code at the instance of Mr. D.M.Jain, by this application is seeking pre-arrest bail.

2. Heard the learned counsel for the applicant. He argued that the period during which the offence was allegedly committed is from 30/10/2013 to 15/12/2014. The F.I.R. of

the said offence came to be lodged by the then Assistant Engineer Mr. D.M.Jain on 23/01/2016. The said informant was party to all process of doing measurement, issuing certificate, etc. for release of payment of bills. The learned counsel drew my attention to the contract agreement and submitted that the applicant, who was contractor, was required to submit bill of work done and the same was used to be routed through the informant - Assistant Engineeer. Officials used to inspect and measure the work and then the bills used to be processed for payment. My attention is drawn to the copies of 3 bills annexed with the application and it is submitted that certificates are appended to these bills certifying the work done. These certificates, according to the learned counsel, were used to be issued by the Assistant Engineer of the Maharashtra State Electricity Distribution Company [for short 'Distribution Company']. The learned counsel further argued that the then Executive Engineer and the Superintending Engineer used to certify bills for effecting payment.

3. The learned A.P.P. opposed the application by contending that the signatures of Assistant Engineers on the bills submitted by the contractor are found to be forged one. Particularly bill Nos. 3 and 4 were found to be not bearing signatures of the informant/the Assistant Engineer. The learned A.P.P. submitted that apart from the informant, 3 other Assistant Engineers have also stated to the Investigating Officer that they never signed bills submitted by the applicant/contractor.

4. Perused papers of investigation. According to the F.I.R. lodged by the then Assistant Engineer Mr. D.M.Jain, the applicant/contractor has submitted the bills with his forged signatures and the applicant/contractor had made forged entries in the measurement book. The informant further averred that by indulging in forgery of valuable documents, the applicant had cheated the Distribution Company.

5. The notice dated 06/04/2016 issued by the Distribution Company to the applicant shows that the applicant had cheated the Distribution Company by amount to the tune of Rs. 57,89,597/-. The notice makes averment that the bills submitted by the applicant/contractor were not in-fact certified by the Engineer at Naigaon and the applicant had submitted the bills by taking signatures of the Executive/Engineer, Degloor. It is also seen that vide Order dated 28/04/2016, the Distribution Company has recovered the said amount from the applicant.

6. The applicant was awarded contract of supply, Tansport, Construction, erection, testing and commissioning of ST LT line and DTC's with service connections to AG Pumps in Naigaon sub division of Degloor division under SPA Scheme. According to the prosecution case, the applicant had submitted bill No. 3 for ₹ 29,88,326 and bill No. 4 amounting to ₹ 33,79,969 with signatures and certificates allegedly made by the then Assistant Engineer. The prosecution has further contended that the measurements in respect of those bills were recorded at page Nos. 50 to 52 and 53 to 55 of the

measurement book.

7. The Assistant Engineers whose signatures were shown to be there on the bills submitted by the applicant, are coming up before the Investigating Officer with a stand that they have not signed and certified the bills submitted by the present applicant. According to the present applicant, the bills were in-fact signed and certified by the then Assistant Engineers.

8. During the course of investigation, it is seen from the papers of investigation that sample hand-writing and sample signatures of the present applicant are taken by the Investigating Officer. Similarly, sample hand-writing and sample signatures of concerned Assistant Engineers are also taken by the Investigating Officer. Those hand-writings and signatures are to be forwarded to the Govt. examiner of the Documents for report. The learned A.P.P. is not sure as to when this exercise will be complete.

9. The whole controversy revolves around the issue as to who has signed and certified the bills submitted by the present applicant/contractor. If it is found that those bills are not signed and certified by the then Assistant Engineers, who were holding charge of the said post at Naigaon, then ultimately, the entire blame will go to the applicant/contractor as he is the person who is ultimately benefited by forged signatures of the Officers of the Distribution Company on his bills. The Distribution Company

has recovered the entire amount by which it is allegedly cheated by the present applicant. As such, for a limited period, till the receipt of the report of the Hand-writing Expert regarding the certificates and signatures on the bills and measurement book, liberty of the present applicant deserves to be protected and, therefore, the following order.

(i) For a period of 4 months from today, in the event of his arrest in Crime No. 10/2016 registered at Naigaon police station, Dist. Nanded for the offences punishable U/ss 420,468,471 of the Indian Penal Code, applicant Subhash s/o Rajanna Tattari be released on bail on executing P.R. Bond of ₹ 20,000/- [Rupees Twenty Thousand] and on furnishing surety in the like amount.

(ii) As a condition of this Order, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.

(iii) The applicant shall not tamper the evidence of the prosecution.

(iv) The applicant shall attend the concerned police station as and when reasonably called by the Investigating Officer for the purpose of investigation.

(v) The applicant shall be at liberty to renew his prayer for pre-arrest bail after the period of 4 months or on receipt of the report of hand-writing Expert, whichever happens earlier.

10. Present Criminal Application stands disposed of accordingly.

[A.M.BADAR, J.]