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

CRIMINAL APPLICATION NO. 3725 OF 2016

1. Balkrishna s/o Sampat Zaware
2. Dnyandeo s/o Rambhau Phapale
3. Sunil s/o Bhaskar Phapale
4. Baban s/o Sadashiv Zaware ..APPLICANTS

VERSUS

The State of Maharashtra ..RESPONDENT

Mr R. R. Karpe, Advocate for applicants;
Mr C. V. Dharurkar, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 1st August, 2016

ORAL ORDER :

Having heard the learned Counsel appearing on behalf of the applicants at length, it is brought to my notice that C.R. No.9 of 2013 came to be registered with Parner police station on 30th June, 2013, for offences punishable under sections 218, 219, 403, 406, 409, 420, 467, 471 read with section 34 of the Indian Penal Code and section 13 (1) (d) of the Prevention of Corruption Act, pursuant to a complaint case filed under section 156 of the Code of Criminal Procedure against the applicants.

2. The nature of allegations against the applicants is that under the

(2)

Government scheme wherein 90% finances are provided by the Government for the purpose of development of small embankment (*bandhara*), the said work was executed by utilizing Government funds in a private place and not at a public place.

3. Learned Counsel appearing on behalf of the applicants submits that all technical officers are protected by this Court, but for the applicants, who are office bearers of the Grampanchayat. According to him, quality of work of construction to be executed was required to be supervised by technical personnel and as such, the applicants who were also protected since 2013, are entitled to be released on pre-arrest bail. He would submit that the applicants are roped as accused, being members of the Grampanchayat and entire record of the Grampanchayat is very much available and as such, their custodial interrogation is not necessary.

4. Learned Addl. Public Prosecutor would submit that apart from the report dated 9th December, 2015, in the matter of misconduct of P.B. Jadhav, Gramsevak, who was working under the applicants, the inquiry reports for taking appropriate action are submitted to various authorities, such as Zilla Parishad, etc.. He would submit that the applicants who have criminal antecedents are not entitled for any protection from this Court.

5. Perused the pleadings, evidence and the contents of the charge-sheet. Prima facie, it is not in dispute that since 2013 till date, the applicants were protected by the Court below.

(3)

6. Apart from above, the applicants are shown to be the Sarpanch and Grampanchayat members. The material as contained in the first information report alleges that the applicants are responsible for execution of such Government work in their jurisdiction. However, there is hardly any material on record to demonstrate that the site in question where the work was executed by the applicants was private and the fact that the work was executed under their supervision.

7. Apart from above, it is noted that the crime in question is based on the documents, which are very much available with the Grampanchayat. Apart therefrom, the Gramsevak had already undergone police investigation in PCR, who is released on regular bail. The other technical personnel of the public body are already released on pre-arrest bail by the Court.

8. In view thereof, the application needs to be allowed. I, therefore, pass following order :-

In the event of arrest of the applicants, in connection with C.R. No.9 of 2013 registered with Parner police station, for offences punishable under sections 218, 219, 403, 406, 409, 420, 467, 471 read with section 34 of the Indian Penal Code and section 13 (1) (d) of the Prevention of Corruption Act, they be released on bail, on each of them furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

(4)

The applicants shall attend the concerned police station initially on 7th, 8th and 9th August, 2016, between 10.00 a.m. and 12 noon.

The applicants shall not tamper with the prosecution evidence.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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