

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3915 OF 2016

1] Sarjerao Anandrao Jadhav,
Age : 65 years, Occu.: Agril,
R/o. Akni, Tq. Mantha,
Dist. Jalna

2] Dattarao Wamanrao Mahajan,
Age : 62 years, Occu.: Retired,
R/o. Mantha, Tq. Mantha,
Dist. Jalna

.. Applicants

Vs.

The State of Maharashtra
Through Police Station Mantha,
Tq. Mantha, Dist. Jalna

.. Respondent

.....

Mr. Girish B. Kulkarni, Advocate for the applicants
Mr. S.Y. Mahajan, APP for the respondent-State

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CORAM : N.W. SAMBRE, J.
DATE : 02/08/2016

ORAL ORDER :

Heard.

2. The applicants are seeking pre-arrest bail
in Crime no. 2 of 2015 registered at Mantha Police
Station, Dist. Jalna for the offences punishable

under section 409, 420 r/w. 34 of the Indian Penal Code. The period for which the offence in question came to be committed by the applicants, as stated in the FIR, is 2006 to 12/12/2015.

3. The applicant no.1 – Sarjerao Jadhav was the chairman of the water supply and conservation committee, whereas applicant no.2 – Dattarao Mahajan was the then Gramsevak, who is retired from service. Both the applicants have given an undertaking that the amount of mis-appropriation, as claimed in the FIR i.e. Rs.2,04,073/-, in case if they are convicted, they will deposit the same alongwith interest at the rate of 9% per annum.

4. In this background, while trying to make out a case for grant of pre-arrest bail, learned counsel for the applicants submits that it is in absence of the applicants, an enquiry was conducted, resulting into registration of the crime. The applicants then claim that the amount, as was

withdrawn and the work for which the amount was disbursed after assessment by the concerned Engineer, is upon certification of payment to that effect by the competent authority. He would then urge that both applicants are senior citizens i.e. above 60 years and the offence, since is based on documents, no fruitful purpose would be served in case their detention is ordered, as they are very much available for the prosecution.

5. Learned A.P.P. submits that the applicants are not entitled for protection from this Court as the nature of offence in which the applicants are involved, is economic one, which is required to be viewed separately than the bodily or other offences. He would then submit that since custodial interrogation of the applicants is necessary, the Application be rejected.

6. Having bestowed thoughts to the submissions made, it is required to be noted that the applicants

are claimed to have been involved in the offences of criminal breach of trust, cheating and for forming common intention to commit the said crime.

7. The investigation depicts that pursuant to the complaint of the Sectional Engineer, the offence came to be registered, alleging defalcation/misappropriation of an amount of Rs.2,04,073/-.

8. As stated hereinabove, both the applicants are no more in charge of the concerned department, as applicant no.2-Dattarao, who was a Gramsevak, has already retired whereas the applicant no.1's term as chairman has come to an end. The offence as is claimed is based on documentary evidence and the applicants are very much available for the purpose of prosecution.

9. Apart from above, the applicants have shown their bonafides, by giving an undertaking that they shall deposit the entire amount of defalcation

alongwith interest, if the trial Court convicts them, within a period of two weeks from the date of their conviction.

10. In view of above, in my opinion, the applicants are entitled for protection. Hence, the following order :-

11. In the event of the arrest of the applicants in Crime no. 2 of 2015 registered at Mantha Police Station, Dist. Jalna for the offences punishable under section 409, 420 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.

12. The applicants shall attend the concerned Police Station, initially on 6th, 7th and 8th August, 2016 between 10.00 am and 12.00 noon and, thereafter, as and when called.

13. The applicants shall not tamper with the prosecution evidence or influence the witnesses in any manner.

14. Criminal Application stands disposed of accordingly.

[N.W. SAMBRE]
JUDGE

arp/-