

Criminal Application No. 4549 of 2016

Both R/o. Jaynagar,
Taluka : Shahada,
District : Ahmednagar. .. Applicants.

versus

The State of Maharashtra,
Through Sarangkheda Police Station,
Taluka : Shahada,
District : Nandurbar. .. Respondent.

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Mr. Amol S. Sawant, Advocate, for applicants.

Mr. S.J. Salgare, Addl. Public Prosecutor, for
the respondent.

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CORAM : A.M. BADAR, J.

DATE : 23RD SEPTEMBER 2016

ORAL ORDER:

Applicants / accused in Crime No. 42/2016

for offences punishable under Sections 420, 467, 468, 471, read with Section 34 of the Indian Penal Code and under Sections 13(1)(c), 13(1)(d) and 13(2) of the Prevention of Corruption Act, registered with Sarangkhedda Police Station, Taluka Shahada, District Nandurbar, on the basis of report lodged by the Police Inspector of Anti-corruption Bureau, Nandurbar, by this application, are seeking pre-arrest bail.

2. Heard the learned Counsel appearing for applicants as well as the learned Addl. Public Prosecutor appearing for the respondent - State.

3. The learned Addl. Public Prosecutor opposed the application by contending that applicants have committed criminal misconduct apart from cheating and forgery and therefore, they are not entitled for pre-arrest bail.

4. Perused the record made available including the FIR lodged by Police Inspector of Anti-corruption Bureau. After processing the complaint of Baburao Ishi, the Anti-corruption Bureau came to the conclusion that applicants have indulged in criminal misconduct. According to the prosecution case, applicant no.1, who is husband of applicant no.2, have conspired with Government Officers and got the land of the Panchayat allotted in the name of Mahatma

Phule Yantramag Sahakari Sanstha Ltd., Jaynagar, [**For short, "the Society"**] which is an institution run by applicant no.2 Nirmala Mali. In the FIR, it is alleged that without taking permission of the Government, land belonging to the Grampanchayat is transferred and false entry is taken in the Form 'Namuna No.8' showing ownership of the Society.

5. Perused annexures to the application. Though it is averred that applicant no.1 Ashok Khalane [Mali] misused his office as Deputy Sarpanch of the Grampanchayat, while in that office in the year 2006, resolution of the Grampanchayat shows that it was resolved to allot a plot admeasuring 250 X 250 Square Feet to the said Society by resolution dated 30.06.1992. It is not seen from record of investigation that in the year 1992 or even thereafter till 2006, applicants were office bearers of the Grampanchayat. It is seen that in the year 1995 itself, the Grampanchayat had given no objection for starting work of power loom to the Society. Form 'Namuna No.8' of the year 2006-07 reflects ownership of the Society instead of ownership of the Government. However, no overbearing importance can be given to that aspect because in the year 1999 itself, the Grampanchayat had given permission to construct building of the Society. Thereafter on 22nd February 2000, by issuing a Government Resolution, project costing Rs. 58,50,000/- of the

Society was approved by the Government. It appears that thereafter this land was mortgaged with the State as a security. Report of the Officer of the Cooperative Department goes to show that the project is complete and production is also going on. It is categorically reported by the Enquiry Officer of the Cooperative Department of the State that there is no misappropriation or corruption in the project run by the Society of which respondent no.2 is the Chairman.

6. In this view of the matter, custodial interrogation of present applicants is not warranted.

7. Hence, I pass the following order :-

(a) The Application is allowed.

(b) Applicants / accused, in the above crime, in the event of their arrest, be released on bail on their executing P.R. Bond in the sum of Rs. 15,000/- each and on furnishing one or more solvent sureties of the like amount by each of them.

(c) As conditions of this order, applicants shall abide by the following directions :-

(i) Applicants / accused shall report to the concerned Police Station on 8th October 2016 in between 11.00 a.m. and 01.00 p.m.

for the purpose of investigation. They shall cooperate the Investigation Officer in investigation of the crime in question.

(ii) Applicants shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

(iii) Applicants shall not tamper with the prosecution evidence in any manner and shall cooperate the learned trial Judge in expeditious disposal of the trial, in the event of filing charge-sheet, if any, in future against them.

(iv) Applicants shall not repeat commission of similar type of offences in future.

8. The Application stands disposed of in the aforesaid terms.

(A.M. BADAR)
JUDGE

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