

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

Criminal Application No. 4836 of 2016

District : Nanded

Aanand s/o. Manohar Shelke,
Age : 41 years,
Occupation : Service,
Village Development Officer
(Grampanchayat) Pomnale,
Himayatnagar,
Taluka : Bhokar,
District : Nanded.

.. Applicant.

versus

The State of Maharashtra,
Through Police Station, Bhokar,
District : Nanded.

.. Respondent.

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Mr. Gaurav L. Deshpande, Advocate, for the applicant.

*Mr. S.M. Ganachari, Addl. Public Prosecutor, for
the respondent.*

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CORAM : A.M. BADAR, J.

DATE : 3RD OCTOBER 2016

ORAL ORDER:

The applicant / accused, by this application, is seeking pre-arrest bail in Crime No. 151/2016 registered with Police Station, Bhokar, District Nanded, for the offence punishable under Section 13(1)(c) read with Section 13(2) of the

Prevention of Corruption Act, 1988.

2. Heard the learned Counsel appearing for the applicant / accused. By drawing my attention to the letter dated 28.08.2014 issued by the applicant and addressed to the Block Development Officer, Panchayat Samiti, Bhokar, the learned Counsel for the applicant has submitted that in fact, the applicant had not indulged in misappropriation of funds, as alleged, and he had executed the work of Grampanchayat but Sectional Engineer Mr. Suleman had not taken measurement of those works. Therefore, in submission of the learned Counsel for the applicant, the enquiry report rightly exonerated him from the charges and he was only directed to deposit the amount as per liability fastened on him. The learned Counsel further argued that Mr. Suleman, Sectional Engineer has not signed the enquiry report deliberately as there was complaint against him. The learned Counsel further submitted that in fact, during his tenure as Village Development Officer, the applicant has received funds of Rs. 4,00,000/- but the amount misappropriation attributable to him by the investigator is Rs. 14,00,000/-. This, according to the learned Counsel, shows falsity of the allegations.

3. The learned Addl. Public Prosecutor opposed the application.

4. Perused papers of investigation including the FIR. As on date, the offence invoked against the present applicant is that of criminal misconduct of dishonestly and fraudulently misappropriating in property entrusted to him as a public servant.

5. Perusal of the papers of investigation shows that on 11.09.2015, the Block Development Officer had directed the Enquiry Committee to examine whether grants of various beneficial schemes provided to Grampanchayat Pomnala were properly spent on work. On 07.11.2015, the said Committee reported that the present applicant as well as Sarpanch of the village had misappropriated the amount. As per report of the Committee, Sarpanch of village Pomnala had misappropriated an amount of Rs. 3,89,793/- whereas present applicant had misappropriated Rs. 10,61,798/-. It appears that the enquiry was started because of complaint made by a RTI activist.

6. Perusal of report of the Enquiry Committee appointed by the Block Development Officer does not show that the applicant was exonerated of the allegations against him. On the contrary, the Committee came to the specific conclusion that the present applicant had misappropriated an amount of Rs. 10,61,798/-. Perusal of the FIR goes to show that the applicant himself had withdrawn Rs. 2,50,000/- which was received by the Grampanchayat towards award for the purpose of construction of

building known as Tanta Mukti Bhavan. FIR as well as papers of investigation shows that this construction was never effected by the present applicant. Then, there are allegations regarding misappropriation of amount on the basis of actual work done as per entries in the measurement book as well as the amount withdrawn for the purpose of effecting the work. Averments are regarding misappropriation of funds of 13th Finance Commission, grants of backward region, grant funds, rural grants and for construction of building of Tanta Mukti Bhavan. There is prima facie evidence to connect the applicant to the crime in question as seen from papers of investigation.

7. True it is that the applicant had made some complaint against the Sectional Engineer regarding demand of bribe and non-effecting of measurement, but still the fact remains that there was withdrawal of amount without construction.

8. Considering the nature of offence and prima facie complicity of the applicant in the said offence, no case for pre-arrest bail is made out.

9. The Application is accordingly rejected.

(A.M. BADAR)
JUDGE

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