

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

**4 CRIMINAL APPLICATION NO. 4958 OF 2016
WITH
APPLN/4957/2016**

**RAJABHAU S/O NARAYAN SHINDE
& ORS.**

VERSUS

THE STATE OF MAHARASHTRA

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Mr. M.D.Narwadkar h/f Mr. S.A.Nagarsoje,
Advocate for Applicants.

Mrs. V.N.Patil (Jadhav), A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 28th SEPTEMBER, 2016

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PER COURT :

1. Learned counsel for applicants submitted that applicant Machindra s/o Narayan Shinde in Criminal Application No. 4958 of 2016 is already arrested by police and, therefore, said application *qua* Machindra s/o Narayan Shinde has rendered infructuous.

2. Applicant Rajabhau s/o Narayan Shinde in Criminal Application No. 4958 of 2016 and applicants Sanjay s/o Khandu Jagtap and Meena w/o Rajabhau Shinde in

Criminal Application No. 4957 of 2016 are accused in Crime No. 132/2016 registered at Pimpalner police station, Tq. and Dist. Beed for the offences punishable u/ss 420,406 read with 34 of the Indian Penal Code. By these applications they are seeking their release on bail.

3. Heard learned counsel for applicants. By taking me through the F.I.R. as well as photo copy of the measurement book annexed to the applications, learned counsel argued that date of measurement in the matter of Criminal Application No. 4958 of 2016 is 04/05/2008, whereas that of Criminal Application No. 4957 of 2016 is April, 2014. It is further argued that work to the extent of about 80 % is already over and subsequently remaining work was also done. However, re-measurement is not done and without conducting any enquiry, because of political pressure, F.I.R. came to be lodged at the instance of the Chief Executive Officer of Zilla Parishad. He further argued that prior to registration of F.I.R., show cause notices were issued and when those notices are tallied with the averments in F.I.R., then the figures of misappropriated amount does not tally. As such, according to learned counsel for applicants, custodial interrogation of applicants is not warranted. He argued that the record of work done is already with the authorities and nothing is required to be seized from applicants.

4. Learned A.P.P. opposed the application by contending that record of investigation shows that work is still incomplete and authorities of Zilla Parishad were repeatedly

issuing letters to accused persons to complete the work or to refund balance amount. Learned A.P.P. argued that considering the nature of offence, applications deserve to be rejected.

5. Perused papers of investigation including F.I.R. of the crime in question. The same is lodged by Dy. Engineer of Rural Water Supply Sub-Division of Zilla Parishad, Beed.

6. Applicant Rajabhau s/o Narayan Shinde in Criminal Application No. 4958 of 2016 was Chairman of Water Supply Committee for the period from 2007 – 2008. According to prosecution case, in the year 2007 – 2008, amount of ₹ 20,64,000/- was sanctioned for Rural Water Supply Scheme under Bharat Nirman Yojana. Work of construction of pipe line, water tank, pumping machinery, switch room, etc. was to be undertaken by the funds provided under Bharat Nirman Yojana. Accordingly, amount of ₹ 15,00,700/- was credited to the account of Water Supply Committee for executing this work. This amount was also inclusive of 10 % contribution of the public. Papers of investigation shows that the account was being operated by applicant Rajabhau Shinde, Chairman of Committee with co-accused Machindra Shinde. They had withdrawn amount of ₹ 14,99,920/-. Accordingly, the work commenced and the authorities of the Zilla Parishad ultimately found that the work of amount of ₹ 12,68,707/- was done by the Water Supply Committee. With this, according to the prosecution case, applicant Rajabhau Shinde, Chairman of the committee and

co-accused had misappropriated amount of ₹ 2,31,213/- from the funds meant for Water Supply Scheme under Bharat Nirman Yojana.

7. Applicants Sanjay Khandu Jagtap and Meena w/o Rajabhau Shinde are stated to be Chairman and Secretary of Water Supply and Conservancy Committee for the year 2011 – 2012. According to prosecution case, as reflected from F.I.R. as well as papers of investigation, for the work relating to Water Supply Scheme for the year 2011 – 2012, amount of ₹ 35,29,900/- was deposited in the account of said Committee of Gram Panchayat, Bhavanwadi. This scheme was to be implemented from the funds provided under Rashtriya Gramin Peyajal Yojana. As seen from papers of investigation, amount of ₹ 35,29,812/- came to be withdrawn by applicants Sanjay Khandu Jagtap and Meena w/o Rajabhau Shinde being Chairman and Secretary of Water Supply and Conservancy Committee for executing work of Water Supply Scheme. It is the case of prosecution that out of funds of ₹ 35,29,812/- withdrawn by these 2 applicants, amount of ₹ 23,67,668/- came to be spent for work of Water Supply Scheme and balance amount of ₹ 11,62,144/- came to be misappropriated.

8. According to prosecution case, figures of misappropriated amount are arrived on the basis of measurements of work done for the year 2008 as well as 2014. There are several notices by the authorities of Zilla Parishad to applicants to finish all the remaining work. Whether measurement done by the authorities is required to be revised

or not, can not be a matter to be determined at this pre-trial stage. *Prima facie*, several notices issued to applicants do indicate that work was not completed. In the wake of valuation of work seen from measurement book and corresponding amount withdrawn from the account of Committee, it can not be said that applicants are not having any complicity in the crime in question.

9. The averments are regarding misappropriation of public funds meant for providing water supply to rural and backward areas under 2 beneficial schemes. Even amount of public at large towards their 10 % contribution is also involved. Therefore, no case for pre-arrest bail is made out. Hence, the following order.

(i) Both Criminal Applications stand rejected and disposed of.

[A.M.BADAR, J.]