

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

CRIMINAL APPLICATION NO.5405 OF 2015

Vasant Tulsidas Jadhavar
Age 51 years, Occu.Service,
R/o Flat No.2, Dhansampada
Apartment, Pipeline road,
Ahmednagar, Dist.Ahmednagar ..Applicant

Versus

The State of Maharashtra
through Beed City Police Station,
Beed, Taluka and District Beed ..Respondent

Mr S.S. Jadhavar, Advocate for applicant
Mr S.J. Salgare, A.P.P. for respondent

- WITH -

CRIMINAL APPLICATION NO.5366 OF 2015

1. Pandurang s/o Marut Chandanshiv
Age 56 years, Occu. Retired,
R/o Raigad Colony, Beed
Taluka and District Beed
2. Kholoba s/o Bhagwat Sarak,
Age 55 years, Occu. Service,
R/o Barshi, Taluka Barshi,
District Solapur ..Applicants

Versus

1. The State of Maharashtra,
through the in-charge Police
Station Officer, Police Station,
Beed.
2. The Superintendent of Police,
District Beed ..Respondents

Mr P.R. Katneshwarkar, Advocate for applicants
Mr S.J. Salgare, A.P.P. for respondents

- WITH -

CRIMINAL APPLICATION NO.5367 OF 2015

Azeemulla s/o Samiulla Patel,
Age 45 years, Occu. Service,
R/o Kadakpura, AUSA, Beed
Taluka AUSA, District Beed

..Applicant

Versus

1. The State of Maharashtra,
through the in-charge Police
Station Officer, Police Station,
Beed.
2. The Superintendent of Police,
District Beed

..Respondents

Mr P.M. Nagargoje, Advocate for applicant
Mr S.J. Salgare, A.P.P. for respondents

- WITH -

CRIMINAL APPLICATION NO.5368 OF 2015

Bapu s/o Laxman Pawal,
Age 56 years, Occu. Service
R/o Sagar Talkies, Ambejogai,
Taluka Ambejogai, Dist.Beed

..Applicant

Versus

1. The State of Maharashtra,
through the in-charge Police
Station Officer, Police Station,
Beed.
2. The Superintendent of Police,
District Beed

..Respondents

Mr P.M. Nagargoje, Advocate for applicant
Mr S.J. Salgare, A.P.P. for respondents

- WITH -

CRIMINAL APPLICATION NO.5369 OF 2015

Baliram s/o Bhagwan Landge,
Age 45 years, Occu. Service,
R/o Pisegaon, Taluka and
District Beed

..Applicant

Versus

1. The State of Maharashtra,
through the in-charge Police
Station Officer, Police Station,
Beed.

2. The Superintendent of Police,
District Beed

..Respondents

Mr P.M. Nagargoje, Advocate for applicant
Mr S.J. Salgare, A.P.P. for respondents

CORAM : N.W. SAMBRE, J.
DATE : 20th January 2016

PER COURT

Heard.

2. Pursuant to the order passed by the Chief Accounts and Finance Officer and the Chief Executive Officer, Zilla Parishad, Beed on 13th March 2015, total thirty one works executed by the Public Works Department, Division No.2, Zilla Parishad, Beed were subjected to scrutiny and audit.

3. In the audit, the Auditor noticed that of the total thirty one works, there are no technical, administrative and financial sanction to nineteen works and as such, has recommended lodging of F.I.R. against the persons responsible for such fraud. As a consequence, Crime No.141/2015 came to be registered on 31st July 2015 against the applicants herein, for the offences punishable under Sections 420, 409, 467, 468, 471 read with sec.34 of Indian Penal Code.

4. It is alleged in the F.I.R. that all the nineteen works, for which no technical, administrative and financial sanction was accorded by the competent authority, the loss to the extent of Rs.50,95,871/- has been caused to the public exchequer.

5. All the applicants herein have approached this Court alleging that they are falsely implicated in the crime in question. According to applicants, there are administrative and technical sanction and appropriate tender process was adopted for execution of the work in question. The applicants then have sought to invite attention of this Court to various documents, such as granting administrative and technical sanction to the nineteen works mentioned in the F.I.R. Attention of this Court is also invited by learned Counsel for the applicants to the work measurement book and the work order registers maintained from time to time.

6. Learned Counsel for the applicants then would urge that the custodial interrogation of the applicants is not necessary for the following reasons:

(a) that the applicants are public servants and they have their identity in the society and have respect for law and there is hardly any likelihood that they would run away from the investigation;

(b) all the documents pertaining to the execution of work for which no administrative, technical and financial sanction was granted were available with the department and are seized by the investigating agency and as such, their custodial interrogation is not necessary;

(c) no role could be attributed to any of the applicants, particularly having regard to the appropriate sanction granted by the Executive Engineer and other competent authorities. Support is sought to be drawn from the extract of various registers which are placed on record.

7. While opposing the applications, learned A.P.P. would urge that the approach of the applicants is completely dishonest in the matter. According to him, at the time of audit, the documents as are sought to be relied upon were not submitted to the Auditor though were called for. He would then urge that the applicants were in the habit of manufacturing the documents, so as to substantiate their illegalities in the matter of execution of work and has invited attention of this Court to the original record which is tendered in the matter. He would then urge that the offence being serious in nature having far reaching impact over the society, is required to be viewed strictly and as such, submits that the applications are liable to be rejected.

8. Learned A.P.P. has rightly placed reliance upon the judgment of Apex Court in the matter of **Nimmagadda Prasad Vs. Central Bureau of Investigation**, reported in **2013 AIR (SC) 2821**, particularly, para 28 of the said judgment, in the matter of approach of the Courts pertaining to economic offence. Paragraph 28 of the said judgment reads thus :

“28. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.”

9. With the assistance of learned A.P.P., I have gone through the investigation papers and the registers maintained by the authorities in the matter of execution of work in question.

10. What is noticed prima facie from the documents, as are placed on record is that the work orders, which are issued at some time are even not signed by the President of the Work Distribution Committee., who is executive head. Apart from above, perusal of the report in the matter of grant of financial and administrative sanction is concerned, there appears to be subsequent construction of record so as to overcome the charge of cheating and fraud. The extract of work measurement book which is placed on record, particularly in Criminal Application No.5366 of 2015 speaks of the subsequent writing of the measurement book, as though the designation as Executive Engineer is mentioned, he has not signed it. At page 74 of the measurement book, Executive Engineer has endorsed the same in between item Nos.7 and 8, whereas, the Sectional Engineer has endorsed on the measurement book after item No.8. The endorsement of Executive Engineer to the measurement book will be always after the approval granted by the Sectional Engineer and perusal of page 73 and 74 of

the measurement book speaks of either subsequent insertions or obtaining sanctions of authorities on blank register and thereafter maintaining the book.

11. Apart from above, the Investigating Officer has produced before me the number of registers, which are maintained for same work i.e. for issuance of work orders after the alleged fraud of tenders. One fails to understand as to what was the necessity for maintaining more than one register for the same work. Apart from above, the registers maintained do not depict mentioning of tender works, issuance of work order in a serial manner, which speaks of certain interpolation and overwriting.

12. The above referred evidence, in my opinion prima facie prompts to believe that the conduct of the applicants, who are public servants is not up to the mark. The said conduct as narrated herein above is only upon a discreet perusal of the record, however, entire record is not scanned by this Court. Apart from above, the Chief Accounts and Finance Officer, who in the manual was duty bound to scrutinise the proposals i.e. to verify the administrative, technical and financial sanctions, has not discharged his duty and has straightway entertained the proposals from the applicants without any prior approval from the competent authority.

13. The above referred narrations speak a volume about the illegalities and the intention of the applicants to misguide or mislead the authorities in the matter of maintaining the record in relation to execution of work in question.

14. In that view of the matter, in my opinion, the applicants even though are public servants, do not call for consideration on that count for releasing them on bail in the matter.

15. As such, the applicants fail, stand rejected.

16. At this stage, learned Counsel for applicants pray for continuation of interim protection for a period of two weeks. Interim protection to continue for a period of two weeks from today.

(N.W. SAMBRE, J.)

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