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

CRIMINAL APPLICATION NO.5443 OF 2015

Govind s/o Maroti Shirame

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr H.V. Patil , Advocate for applicant;

Mr S.Y. Mahajan, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 9th February, 2016

ORDER :

By the present application under section 438 of the Code of Criminal Procedure, the applicant seeks his release on pre-arrest bail, in connection with C.R. No.109 of 2013, registered with police station, Mukhed, District Nanded, for offences punishable under sections 420, 409, 417, 419, 463, 468, 471 read with section 34 of the Indian Penal Code.

2. The applicant was Sarpanch of the Village Panchayat, Shirur (Dabde), Taluka Mukhed, District Nanded, during the period from 2010 to 2015. One Sanjaysingh Devkate filed an application under section 156 (3) of the Code of Criminal Procedure, in the Court of the Judicial Magistrate First Class, Mukhed, *inter alia* alleging that while implementing the development schemes under Mahatma Gandhi National Rural Employment Guarantee Act, the applicant along with other accused has committed an

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offence (a) by showing that the work as was claimed to have been executed by the Grampanchayat, was in fact, not at all executed and (b) the unskilled labourers, whose job cards were prepared and who were shown to have been paid the wages, were in fact, students, dead persons, etc. Based on the complaint lodged by the complainant, the learned Magistrate passed an order under section 156 (3) of the Code of Criminal Procedure, whereby the offence referred supra came to be registered against the applicant.

3. While trying to make out a case for grant of pre-arrest bail, learned Counsel appearing on behalf of the applicant has invited my attention to certain documents depicting health condition of the applicant. He would then urge that there is no role to be performed by the present applicant while giving effect to the scheme in question, as the entire responsibility is that of Tahsildar, Gram Sevak and Gram Rojgar Sevak. He would then urge that custodial interrogation of the applicant is not necessary as entire documentary record is available with the Panchayat office and office of the Tahsildar. Thus, he prayed to direct release of the applicant on pre-arrest bail.

4. Learned Addl. Public Prosecutor submits that the bail application is liable to be rejected on the ground that even if the health condition of the applicant is taken into account, appropriate medical aid can be provided to him. According to him, apart from above, from the investigation carried out so far, it could easily be inferred that there is *prima facie* involvement of the

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applicant in the crime in question, as he being head of the Village Panchayat was duty bound to supervise the working of the scheme in question. Learned Addl. Public Prosecutor then would urge that custodial interrogation of the applicant is necessary so as to find out the mode and manner of commission of the crime. He would further urge that what is investigated appears to be a tip of the iceberg and there might be some more illegalities and irregularities committed by the applicant. Thus, he prayed to reject the application.

5. Having bestowed my thought to the submissions made and having perused the investigation papers and the complaint, it is noted that the applicant cannot wash away his responsibility by saying that he is not responsible for execution of the scheme in question. The Govt. Resolutions and the scheme under the Act contemplates that the Sarpanch, Gram Sevak and Gram Rojgar Sevak are responsible for identification and execution of the work by providing assured employment to unskilled workers, with a view to achieve the object of the statute. Thus, the Govt. Resolutions and the scheme under the Act contemplates specific responsibility to the Village Panchayat of which the present applicant is head, under whose supervision the schemes are sanctioned and implemented. It is the duty of the Grampanchayat through the Gram Rojgar Sevak and Gram Sevak to register the labourers for the purpose of execution of the scheme in question. It is further noted that the amounts of wages to various labourers are disbursed upon signing of the cheque by the present applicant with that of the Gram Sevak and the amounts are

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transferred to the respective accounts of the labourers. What is noticed during the investigation is the amounts were shown to have been paid to the labourers and the work which was shown to have been done, was in fact, not at all executed.

6. Having regard to *prima facie* material as aforesaid and more particularly in the light of the nature of the offence being economic as is brought to the notice of this Court, in my opinion, custodial interrogation of the applicant is necessary and, therefore, he does not deserve grant of pre-arrest bail.

7. In the light of foregoing discussion, Criminal Application fails and accordingly stands rejected.

(N.W. SAMBRE, J.)

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