

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

CRIMINAL APPLICATION NO. 5601 OF 2016

1. Paresh s/o. Subhash Bhopale .. Applicants
Age. 32 years, Occ. Medical
Practitioner, R/o. Mauli Hospital,
Gangapur Road, Tq. Vaijapur,
Dist. Aurangabad.
2. Umesh s/o. Wamanrao Raut
Age. 32 years, Occ. Service,
R/o. Laxmi Nagar, Gangapur Road,
Tq. Vaijapur, Dist. Aurangabad.

Versus

The State of Maharashtra .. Respondent

Ms. Varsha Ghanekar h/f. Mr. Nilesh S. Ghanekar, Advocate
for the applicants.

Mr. S. M. Ganachari, APP for respondent/State.

CORAM : A.M. BADAR, J.

DATED : 19.10.2016

P.C. :-

1. Applicants/accused, who are Managing Director and the Manager of Dhanwantari Nagari Mahila Patsanstha, Vaijapur, are accused in Crime No. I-124 of 2015 registered with Vaijapur Police Station, Dist. Aurangabad, for the offences punishable under sections 406 and 409 read with section 34 of the Indian Penal Code. By this application, they are seeking pre-arrest bail.

2. Heard learned Counsel for applicants/accused. She argued that the entire amount allegedly misappropriated by accused persons has already been deposited with the Maharashtra State Electricity Distribution Company Limited ("MSEDCL" for the sake of brevity).

3. Learned A.P.P. is not disputing the fact that entire amount has been deposited by Dhanwantari Nagari Mahila Patsanstha, Vaijapur with the informant distribution company. Learned A.P.P. opposed the application by contending that though the amount is deposited, this fact will have to be considered at the time of imposing sentence, if any, on the conclusion of the trial. But the fact remains that the averments in the F.I.R. are in respect of criminal breach of trust as well as cheating to the principal by the agent.

4. Perused papers of investigation made available. According to the prosecution case, Dhanwantari Nagari Mahila Patsanstha, Vaijapur was given contract to collect bills of electricity consumption issued to the consumers of the MSEDCL. However, the said society misappropriated an amount of Rs.81,44,464/- by collecting it from the customers but not depositing with the MSEDCL. Now that

amount is deposited. In this view of the matter, custodial interrogation of applicants would not serve any fruitful purpose. Hence, the application needs to be allowed. Therefore, the following order:-

O R D E R

- i. The application is allowed.
- ii. In the event of their arrest in Crime No.I-124 of 2016 , registered with Vaijapur Police Station, Dist. Aurangabad, for offences punishable under sections 406 and 406 read with section 34 of the Indian Penal Code, applicants – Paresh s/o. Subhash Bhopale & Umesh s/o. Wamanrao Raut, be released on bail on executing P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand) and on furnishing surety in like amount, by each of them.
- iii. As a condition of this order, applicants shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police to the Court.
- iv. Applicants shall not tamper the evidence of the prosecution.
- v. Applicants to attend the concerned police station as and when reasonably called for the purpose of investigation.

[A.M. BADAR, J.]