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

CRIMINAL APPLICATION NO.6490 OF 2015

Gajanan s/o Pandurang Agarte ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr S.B. Talekar, Advocate for applicant;
Mr S.J. Salgare, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 21st January, 2016

ORDER :

By the present application under section 438 of the Code of Criminal Procedure, the applicant, a Block Development Officer, seeks his release on pre-arrest bail, in connection with C.R. No.266 of 2015, registered with police station, Kaij, District Beed, for offences punishable under sections 465, 468, 408, 409, 420 read with section 34 of the Indian Penal Code.

2. Mr Talekar, learned Counsel appearing on behalf of the applicant, while trying to make out a case for grant of bail, would urge that the applicant was posted as a Block Development Officer, Panchayat Samiti, Kaij, during the period between 1st April, 2013 and 9th September, 2015. He would then urge that so far as the scheme under Mahatma Gandhi National Rural Employment Guarantee Act is concerned, a pyramid structure is provided, so as to maintain transparency in the matter of

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selection of work, execution of work, payment of wages to unskilled workers, etc. According to the learned Counsel, the work of preparation of job cards of skilled and unskilled workers, in the ratio of 60 : 40, maintenance of muster roll and preparation of bills is entirely allocated to different officials and the applicant has no duty to physically verify execution of the work. He would then urge that perusal of the first information report depicts that there are allegations against the applicant that since he was working as a Block Development Officer, forged work orders were generated by tampering with the computer system and by showing on paper that the work was executed, however, in fact, no such work was executed, thereby causing loss to the tune of Rs.12,18,314/- to the public exchequer. According to him, the applicant cannot be held responsible for the same. He would then urge that the applicant being a public servant has an image in the society and the employer with whom he is working, as also he is holding an immovable property. The applicant being a public servant has every respect for law and is readily available for interrogation in the crime in question. According to him, custody of the applicant is not necessary. He, therefore, prayed to enlarge the applicant on pre-arrest bail.

3. Learned Addl. Public Prosecutor, with the assistance of the Investigating Officer, who is personally present in the Court, has taken me through the work flow chart framed by the State Government with that of the responsibilities under the Maharashtra Employment Guarantee (Amendment) Act, 2014. He would then urge that perusal of the

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investigation papers rather reflects that there is indirect supervision of the applicant on the working and implementation of the scheme. According to him, the work is shown to have been done on paper, however, physically it is noted that no such work is executed and loss to the public exchequer is caused. He submits that the offence being an economic in nature is required to be viewed differently by this Court and as such, according to him, so as to detect the conspiracy practised by all the accused persons, custodial interrogation of the applicant is necessary. He, therefore, prayed to reject the application.

4. Considered rival contentions and scanned the investigation papers thoroughly. Clause 6-1B of the Maharashtra Employment Guarantee (Amendment) Act, 2014 (Mah. Act No.XXVI of 2014) provides that the present applicant, who is a Joint Programme Officer, is required to function under the direction, control and superintendence of District Programme Co-ordinator.

5. Perusal of the various Government Resolutions, which are placed on record, do not speak that the present applicant being a Joint Programme Officer was required to carry out any physical verification of the work executed. Although the Government Resolution dated 27th May, 2011 speaks of the duty to be performed by the Block Development Officer, pursuant to Schedule "A" appended to the said Government Resolution, yet perusal of Schedule "A" fixes a responsibility of maintaining 60 : 40 proportion of skilled and unskilled workers on him and the

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Tahsildar. There is hardly any material on record to demonstrate that the applicant was required to physically supervise the sanction and/or certify the release of the amount.

6. Apart from above, the fact remains that the applicant is a public servant and has an identity in the society. He being a public servant, there is hardly any likelihood of he fleeing away from the investigation and the process of law.

7. In that view of the matter and having regard to the fact that the applicant was posted as a Block Development Officer, at the relevant time and was not instrumental in taking any material decision, in my opinion, it will be appropriate to enlarge him on pre-arrest bail. I, therefore, pass following order :-

In the event of arrest of the applicant, in connection with C.R. No.266 of 2015, registered with police station, Kaij, District Beed, for offences punishable under sections 465, 468, 408, 409, 420 read with section 34 of the Indian Penal Code, he be released on bail on furnishing P.R. Bond of Rs.25,000/- with one surety in the like amount.

The applicant shall attend the concerned police station initially during the period from 27th to 30th January, 2016, between 10.00 a.m. and 12 noon and thereafter as and when called by the Investigating Officer.

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The applicant shall not tamper with the prosecution evidence.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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