

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1133 OF 2015

Santosh S/o. Mitharam Jadhav

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. V.R. Patil i/b. Mr. K.J. Sonawane for the Applicant.

Ms G.P. Mulekar, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 2nd MARCH, 2016.

P. C. :

This is an application for anticipatory bail filed by the aforesaid Applicant in apprehension of his arrest in Crime No.85 of 2015 registered at Jaykheda Police Station, Taluka-Satana, District-Nashik, for offences punishable under sections 406 and 409 of the IPC.

2. The aforesaid crime was registered pursuant to the FIR dated 2.7.2015 lodged by one Sanjay Sonu Mahale, Extension Officer, Panchayt Samittee, Baglan. The allegations against the Applicant in brief are that between the years 2012 to 2013 the Applicant, who was Village Development Officer was posted at Ambasan, Taluka-Satana, had misappropriated an amount of Rs.5,96,427/-, which was allotted

for the construction of Gutter under 13th Vitta Ayog

3. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent -State. Perusal of the FIR prima facie reveals that Chandrakant Ramdas Kor had lodged a complaint dated 9.12.2014 alleging that certain amount allotted to the said Grampanchayat was misappropriated and a committee was formed to enquired into the allegations made in the said complaint. The committee suspected that an amount of Rs.5,96,427/- which was allotted for construction of gutters under 13th Vitta Ayog, was misappropriated. It is alleged that a notice dated 23.3.2015 was issued to the Applicant and that the Applicant had failed to reply to the said notice and further failed to repay the misappropriated amount and as such aforesaid FIR dated 2.7.2015 came to be lodged.

4. The FIR prima facie reveals that the amount was allegedly misappropriated from 28.11.2012 to 4.6.2013. The preliminary enquiry report in respect of the said misappropriation was submitted on 19.12.2014 whereas the FIR came to be lodged on 2.7.2015. There is thus, considerable delay from the date of the report and the date of the lodging of the FIR. The learned APP has submitted that in the

year 2013 the Applicant had filed an affidavit before the panchayat admitting his guilt and had issued two cheques of Rs.2,00,000/- towards refund of the misappropriated amount and that both the cheques were dishonoured. The FIR does not prima facie disclose the said fact. Furthermore, if at all the said misappropriation had come to the knowledge of the panchayat samitee in the year 2013, no explanation has been given for not lodging the FIR from 2013 to 2014. Delay in lodging the FIR, in my considered view would itself be a ground which would not justify custodial interrogation. Even otherwise the Applicant was granted interim bail by order dated 7.8.2015 and he has already joined the investigation. The Applicant is a Government Servant and there is no possibility of his absconding and/ or thwarting the course of justice. Hence, in my considered view, the presence of the Applicant is not required for the purpose of custodial interrogation.

5. Under the circumstances and in view of discussion supra the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in Crime No.85 of 2015 registered at Jaykheda Police Station, Taluka-Satana, District-Nashik, the Applicant shall be

released on bail on furnishing the bail bond of Rs.25,000/- (Rupees Twenty Five thousand only) with one or two sureties to the like amount to the satisfaction of J.M.F.C., Satana.

(ii) The Applicant shall report to the Investigating Officer as and when required by the Investigating Officer for the purpose of investigation and interrogation.

(ANUJA PRABHUDESSAI, J.)