

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION(APPLN) NO.25/2015

(Rajkumar s/o Yashwant Malve vs. State of Maharashtra and another)

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

.....
Mr. S.G.Joshi, Advocate for applicant
Ms. N.P.Mehta, APP for respondent no.1

CORAM: A.B.CHAUDHARI, J.
DATED : 1st February, 2016.

Heard learned counsel for the rival parties.

The impugned order dated 25.2.2015 passed by
learned Additional Sessions Judge, Akot granting
anticipatory bail to the respondent no.2, is under
challenge in the present Application.

Mr. S.G.Joshi, learned counsel for the applicant
vehemently contended that the respondent no.2 and
other accused prepared false documents and
misappropriated approximately Rs. 80 lakhs in the
construction of market yard of A.P.M.C Akot.

Upon perusal of the impugned order it appears
that the contractor-respondent no.2 claims that, in fact,
he had received less payment by almost Rs. 1 crore
when the construction was made and, therefore, it is he
who is supposed to receive the additional amount. The
order has been in force for almost a year and no
adverse report is placed before this Court in order to
reverse the order made by the learned Additional

Sessions Judge, Akot, which was passed in his judicial discretion.

I quote paragraph Nos.18 and 19 of the impugned order, which reads thus:-

“18. On careful scrutiny of police investigation papers, I am of the opinion that nothing is to be recovered from the applicant. The alleged forged documents are in custody of APMC Akot and only on the ground that the excess payment was made to the applicant, it cannot be said that he had played any role in misappropriation and committed forgery of the documents. The complainant earlier made complaint to the Government. Its copy is available on record and the allegations of corruption have been made only against the Chairman and Ex-Secretary of the APMC. The applicant is a reputed Government Contractor and in the event of his arrest, his prestige will be malign. The Ld. APP submitted that the amount of misappropriation is necessary to be recovered from the applicant. But according to the applicant he had deposited Rs.15,00,000/- and subsequently Rs.2,28,00,000/- by way of security with the APMC. Thus, taking into consideration the facts and circumstances, I am of the view that it is not the ground for rejection of application for grant of anticipatory bail. So far as the authorities relied upon by the Ld. A.P.P. and Ld. Advocate

for the complainant, the same are not applicable to the facts of this matter.

19. There is no possibility of fleeing away from justice by the applicant on grant of anticipatory bail he is ready to cooperate with the I.O. and considering the nature of offence and the facts and circumstances of the matter, I am of the opinion that by imposing certain conditions, the application for grant of anticipatory bail is necessarily to be allowed.”

In any case, it is too late in the day to interfere in the impugned order. Criminal Application No. 25/2015 is rejected.

JUDGE

sahare