

FARAD CONTINUATION SHEET

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.****Criminal Application (aba) No. 321 of 2016 WITH**

Prakash s/o Rambhau Ranbaware

v.

State of Maharashtra

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

Court's or Judge's orders

Mr. Anil Mardikar, Sr. Advocate, with Advocate S. Joshi for the
applicant.

Mrs. M. Naik, APP, for the State in both the application.

...

Coram : S.B. Shukre, J.

Date : 22nd JULY, 2016.

Heard learned senior counsel for the applicant
and learned APP for respondent/State. Perused the reply
filed by the prosecution, the case diary, F.I.R. and also the
measurement-book produced before the Court.

It appears from the record made available by the
Investigating Officer that offences under Sections 467, 468,
471, 477-A, 409 and 420 read with Section 34 of Indian
Penal Code are registered against this applicant and others
on the premise that all these persons have with dishonest
intention created false record, made false entries in the
measurement-book and the muster showing completion of
certain quantity and quality of work, though it was non-
existent in the field, with an intention to cause wrongful

gain to somebody and wrongful loss to the Government. Such being the basis of the prosecution story, insofar as this applicant is concerned, it would be incumbent upon the Investigating Officer to show that even this applicant had intentionally or with criminal knowledge took false entries or at least endorsed those false entries made in the record of the office. But, on going through the case diary, I find such material as being absent, insofar as the present applicant is concerned.

Learned APP has laid much stress upon the measurement-book produced before me for perusal which contains signature of this applicant on some pages. The signatures are certainly there, but, admittedly those entries are not taken by this applicant. They appear to be taken by the Technical Officer, who is responsible for entering those entries as per Govt. Circular 20.1.2014. This Circular is placed before me and its perusal discloses that the only duty placed upon this applicant is one of cross-checking the signatures and the process has been termed as "Check Measurement" [paragraph no. 5 of the Circular]. As per this paragraph, a duty has been cast upon the Sectional Engineer to cross-check the correctness of the entries and in this process the Sectional Engineer has to check the correctness of the entries only to the extent of 25% of the total work done. This would mean that the Sectional Engineer before endorsing as correct those entries through the process of check measurement has to satisfy himself about the correctness of the entries and if he on closely examining them finds no doubtful entries, and no reason to entertain any doubt about them, he would have to certify

those entries as are found correct by him. But, if any suspicion arises in his mind, he would have to even visit the spot of work and ascertain the correct position therefrom. Even that visit would be confined only to the physical verification of 25% of the total work done. It is the contention of learned senior counsel that this duty has been performed by the applicant and he had found on physical verification of 25% of the work done that the entries were correctly recorded. He further submits that if the remaining work was not as per the specifications or consistent with the measurement entries recorded in the measurement-book and other records, he could not be held responsible for that because the duty cast upon him obliges him to undertake the process of check measurement only to the extent of 25%. About these contentions, I could not find anything from the reply of the prosecution as well as the case diary as providing a counter view so as to enable me to reject these contentions. There is no material as of now available on record to make one believe that even this applicant had acted in the matter with any criminal intention. Prima facie, this case appears to be one of not performing the duty by the applicant properly and as per the rule-book. If at all it is found that there is some non-performance of the duty, that would not lead one to infer that there is also prima facie criminal intention on the part of this applicant. The prosecution would have to work even harder and make further investigation in this case. But, till that time and also for the reason that sufficient time has been made available to the Investigating Officer, the relief of anticipatory bail need not be refused to this applicant. Hence, the order.

The application is allowed and the interim bail granted to this applicant on 20.5.2016 is hereby confirmed on the same conditions with addition of condition that the applicant shall attend the police station as and when required by the Investigating Officer.

Judge

/TA/

Certificate

“I certify that this judgment/order uploaded is a true and correct copy of original signed judgment/order.”

Uploaded by : Tanveer Ahmed, P.S.

Uploaded on : 25/7/2016