

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (ABA) NO.579/2015

(Amol Vishwas Ramteke vs. The State of Maharashtra)

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CRIMINAL APPLICATION (ABA) NO.585/2015

(Ravindra Vitthal Parate vs. The State of Maharashtra)

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

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Mr. S.V. Sirpurkar/ D.V.Chauhan, Advocate for applicant/s
Mr. M.J.Khan, APP for respondent -State
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CORAM: A.B.CHAUDHARI, J.

DATED : 11th January, 2016.

Both these Applications are taken up together
for final disposal.

2. Heard learned counsel for the rival parties, at length.

3. The allegations against the applicants are that the applicant-Ravindra Parate, working as Deputy Engineer in Rural Water Supply Department, Zilla Parishad, Gadchiroli had released the payments without verifying the completion of the work and, as such, caused loss to the Zilla Parishad. It is further alleged that there was a total misappropriation to the tune of Rs. 35,66,312/-.

4. This Court had appointed an independent

agency, namely, Superintending Engineer, PWD Government of Maharashtra, Gadchiroli, to find out the correctness of the claim about the said amount of misappropriation. The Superintending Engineer submitted the report stating that half of the said amount of work to be done i.e. around Rs. 18 lac, was not done at all and that is why the account of the Contractors were frozen by the police machinery.

5. Insofar as the applicant-Amol Ramteke (ABA No. 579/2015) is concerned, he is a Junior Engineer, working under the Deputy Engineer-Ravindra Parate, who was eventually the In-charge Executive Engineer.

6. There was one more Junior Engineer, by name, Sagar Mankar, who had applied to this Court for grant of anticipatory bail. That Application was rejected by this Court since the Investigating Officer had produced before the Court, the entries in the bank account of Sagar Mankar, indicating payment of bribe amount to him, by account payee cheque, by the contractors, in the sum of Rs. 4 lakhs and about Rs. 7 lakhs respectively, by self-drawn cheques. Thus, there was a direct evidence shown to this Court against the said Junior Engineer and, as such, the Application was rejected.

7. The above-referred Applications were also heard along with the said Application that was filed by Sagar Mankar; but then the prosecution required some time to find out similar type of evidence in the case of these two applicants. The said order was passed on

23rd December, 2015.

8. Today, the learned APP along with the Investigating Officer (I.O.) have made a statement that the I.O. has made sincere efforts to find out the evidence, but they could not find any such concrete evidence against these applicants though the I.O. has checked all the pass books entries, in respect of the applicants. The I.O. has, however, submitted that he recorded the statement of one witness, by name, Dhiraj Varade, a third person, who stated that he had made payments, in cash, to Ravindra Parate, totalling in the sum of Rs. 80,000/- some time in November, 2013 which he had received from the Contractor. Insofar as the other applicant-Amol Ramteke is concerned, the learned APP and the I.O. have fairly submitted that no such statement involved Amol Ramteke. In order to test the veracity about the payment of money by Dhiraj, this Court made further queries and the I.O. has shown the pass book of Dhiraj, to show the entires in his account from the amount received from the Contractor-Ashok Ragiwar, totalling in the sum of Rs. 80,000/- which were said to have been paid to Ravindra Parate. This Court, however, finds from the perusal of the entires in the passbooks, that the entries are dated 23.12.2013 for the sum of Rs. 80,000/- deposited in his account, by Ashok Ragiwar. But then, the statement of Dhiraj is that the amount of Rs. 80,000/- was paid in November, 2013. Thus, it is difficult to reconcile both the statements including the statement of Ashok Ragiwar, the contractor. It could therefore very well be said that the statements under Section 161 of the

Cr.PC. recorded by I.O. of Dheeraj and Ashok Ragiwar would not give any *prima facie* evidence against these two applicants or, for that matter, against the applicant-Ravindra Parate.

9. The learned APP then vehemently contended that the I.O. wants to check up the on-line grant of tenders as, according to him, particular contractors were favoured by the applicant-Ravindra, upon tampering and, therefore, custody of both these applicants are necessary. In order to check up on-line system or tampering thereof, if any, in my opinion, custody of the applicants would not be required, since the same can easily be found from the relevant computers. At any rate, if any information or interrogation is necessary, care could be taken by this Court, by asking the applicants to appear before the I.O. for the purpose of interrogation. That being so, to sum up, since there is no direct evidence against the applicants despite sufficient time being given to the I.O. I think, both the applicants deserve to be granted the relief of anticipatory bail.

10. Learned counsel for the applicant-Ravindra Parate submitted that his client has already received a show cause notice for departmental enquiry. It is a matter of serious concern that the Engineer/applicants in cahoot with the Contractors, instead of implementing the scheme for the welfare and benefit of tribals, have unjustly enriched themselves. Though *prima facie* no evidence is found about the criminal culpability of the applicants, it is expected of the

Government and the Zilla Parishad to set the things right. Hence, I make the following order:

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ORDER

- i) Rule is made absolute in terms of the interim order dated 6.11.2015 made by this Court, in both the Applications.
- ii) Both the applicants are directed to appear before the I.O. on 18th January, 2016 and thereafter as and when required, for the purpose of investigation and shall cooperate with the Investigating Officer.
- iii) In case there is no cooperation from the applicants, the I. O. is at liberty to apply to this Court for modification and/or cancellation of the bail.

JUDGE

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