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

CRIMINAL APPLICATION NO.313 OF 2017

Shivaji s/o Ramrao Potdar,
Age: 57 years, Occ: Government
Service as Agricultural Supervisor
in the office of the Taluka
Administrative Officer, Biloli,
R/o. Ashok Nagar, Mukhed,
Taluka Mukhed, Dist. Nanded. ..APPLICANT

VERSUS

The State of Maharashtra
through the Police Sub Inspector,
Mukhed Police Station, Mukhed,
District Nanded & anr. ..RESPONDENTS

Mr R.S. Deshmukh, Advocate for applicant;
Mr A.D. Namde, Addl. Public Prosecutor for
respondents

**WITH
CRIMINAL APPLICATION NO.78 OF 2017**

1. Madhukar Sahebrao Pole,
Age: 54 years, Occ: Service,
Taluka Agri. Officer,
R/o. Karmala, Tq. Karmala,
Dist. Solapur.
2. Narsing s/o Govindrao Munthalwad,
Age: 55 years, Occ: Service,
Tq. Agri. Officer, Mukhed
R/o. Shirur Tajband, Tq. Ahmedpur,
Dist. Latur.
3. Vijaykumar Anantrao Naik,
Age: 53 years, Occ: Service
Circle Agri. Officer,

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R/o. Ashtvinayaka Nagar,
Nanded.

..APPLICANTS

VERSUS

The State of Maharashtra
through Police Mukhed
Tq. Mukhed, Dist. Nanded.

..RESPONDENT

Ms. Yogita M. Kshirsagar, Advocate for applicants;
Mr A.D. Namde, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 27th JANUARY, 2017

ORAL ORDER :

These applications are for grant of pre-arrest bail by the applicants, who are public servants.

2. The prosecution story as could be gathered from the material available on record is, the State Government through Department of Agriculture has implemented Integrated Water Shade Management Programme in Mukhed Taluka for the period 2011-12 and 2012-13.

3. It is claimed that for the said period, there was misappropriation of the public funds in the development activities carried out at villages

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Dapka Raja, Mangyal, Vartala, Pakhandewadi, Shelkewadi.

4. It is further claimed by the prosecution that Sub-Divisional Agriculture Officer made enquiry pursuant to the complaint dated 3rd October, 2014 preferred by one Raju Vijayrao Raherkar and submitted enquiry report wherein it is alleged that the actual work to the tune of Rs. 6,20,679/- is actually done. It is further claimed that there is misappropriation of amount of Rs.46,57,373/-.

5. The applicant in Criminal Application No. 313 of 2017 was working as Agriculture Supervisor in Taluka Biloli and claimed to have misappropriated amount of Rs.6,33,506/-, whereas in Criminal Application No. 78 of 2017, applicant No. 2 – Narsing Govindrao Manthalwad, who was working as Taluka Agriculture Officer against whom, the claim of misappropriation is Rs.2,39,092/-, against applicant No.1-Madhukar Sahebrao Pole, who was

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working as Taluka Agriculture officer, Mukhed is Rs.73,610/- and against applicant No.3- Vijaykumar Anantrao Naik, who was working as Circle Agriculture Officer is Rs. 4,69,056/-.

6. The Government Resolution dated 31st July, 2013 prescribes the responsibilities of the officers for implementing Integrated Water Shade Management Programme. It is required to be noted that the principal responsibility of the implementation of the said programme and release of the funds is not with that of applicants, who were holding relevant posts when the alleged defalcation took place. It is required to be noted from the contents of said Government Resolution, which is placed on record that the Agriculture Assistant is required to prepare disbursement accounts qua salary to be paid and of the total accounts. 25% of A/cs. are randomly required to be checked by Agriculture Officer.

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7. It is then to be noted that the work in question came to be executed during the period 2011-12 and 2012-13. The work is not executed in isolation by Agriculture Department, but there appears to be participation of Village Panchayat and other agencies. It is after lapse of about four years after offence came to be lodged, the said work was reinspected and there was finding of short of work.

8. It is required to be observed here that the nature of work as has been executed, prima facie, appears of without any permanent structure.

9. As such, the enquiry report based on the visit of the Officer to the spots after period of four years from the date of execution of work, prima facie, in my opinion, cannot be formed to be basis for involving the applicants in the crime in question.

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10. Apart from above, the entire offence as has been alleged is based on documentary evidence and the applicants, who have rendered substantial service with the State Government, without any adverse record till date, are very much available for the investigation.

11. In that view of the matter, in my opinion, the case for bail is made out. Hence, I pass following order:-

(i) In the event of arrest of the applicants, in connection with C.R.No. 171 of 2016, registered with Mukhed Police Station, Tq. Mukhed, Dist. Nanded, for offences punishable under Sections 409, 420, 465, 468 and 471 of the Indian Penal Code, they be released on bail, on each of them furnishing P.R. Bond of Rs. 25,000/- with one or two sureties in the like amount.

(ii) The applicants shall attend the Investigating Officer on 18th, 19th and 20th

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February, 2017, between 12.00 noon and 2.00 p.m.
and thereafter as and when called.

(iii) The applicants shall not take any steps to
influence the prosecution witnesses or tamper
evidence of prosecution.

Criminal Applications stand allowed in
above terms.

(N.W. SAMBRE, J.)

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