IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1531 OF 2017

Pisa s/o Temba Walvi, Age 28 years, Occu. Service, R/o. Kharda, Tq. Dhadgaon, Dist. Nandurbar. ... **Applicant**

VERSUS

1 The State of Maharashtra ... **Respondents**

2) The Investigating Officer, Police Station Dhadgaon, Dist. Nandurbar.

Mr. P.R. Patil, Advocate for the applicant
Mr. K.N. Lokhande, APP for the respondent/State.

CORAM : K. L. WADANE, J.

DATE : 22nd June, 2017

ORDER:

1. Heard Mr. P.R. Patil, learned counsel for the applicant and Mr. K.N. Lokhande, learned APP for the respondents/State.

2. Present application is filed under the provisions of section 438 of the Code of Criminal Procedure in connection with Crime No. 02/2017, registered with Dhadgaon Police, District Nandurbar, for the offences punishable under section 468, 420,

409,471, 477A read with section 34 of the Indian Penal Code.

3. Mr. Patil learned counsel for the applicant submits that the alleged irregularities in the work of measurement and the misappropriation of amount are in reference to the agricultural pond (शेततळे) constructed within the village limit of Mandavi (Bk) where the applicant was appointed. The applicant was just looking after the work of measurement in absence of regular Technical Officer. Mr. Patil further submits that, as per the system, after completion of the work, the amount is to be paid to the farmers directly. Therefore, acceptance of the amount from the Government or the misappropriation does not arise.

4. Against this, learned APP submits that, there was direct allegation against the present applicant about excess measurement of the work was done. By referring the statement of witness Ravindra Shamrao, the learned APP points out that the present applicant was directly concerned with the measurement of work and there is huge difference in

the measurement than the actual work done. So also, he further submits that, in stead of doing the work manually by engaging labourers, they done the work with the help of JCB machine. Therefore, there was misappropriation of Government money to the tune of Rs. 1,75,00,000/-.

5. I have gone through the papers of investigation particularly statement of Rajendra. It appears that, the present applicant was appointed as a Technical Assistant to measure the agricultural ponds in village Mandavi. Further, it appears that there were 300 agricultural ponds to be constructed. From the communication, letter dated 29.04.2014 issued by Deputy District Program Co-Ordinator, Zilla Parishad Nandurbar addressed to the Deputy Collector Nandurbar, it reveals that, there is difference between measurement noted in the measurement book and the actual amounts paid to the farmers. Further from the communication letter by Inspection Officer, Minor Irrigation, Zilla Parisahd Nandurbar addressed to Deputy Collector dated 02.10.2015 it reveals that, measurement books were

not available and excess amount was paid as per the MIS expenditure. All these aspects goes to show that the applicant has some connection with the irregularities, alleged misappropriation. The amount of alleged misappropriation is very huge. Therefore, the custodial interrogation of the present applicant may be necessary. From the report of the investigating officer, it appears that, present applicant is absconding. In such circumstances, the present applicant is not entitled for anticipatory bail. Hence, the application is rejected.

6. The aforesaid observations are made at a very primary stage of litigation and to consider plea of anticipatory bail of the applicant. The trial court shall not influence by any of the observations made herein.

(K. L. WADANE, J.)

mkd/-