

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

**BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.2266 OF 2017**

Ramesh Shankar Choudhari,  
Age-65 years, Occu:Business,  
R/o-Nakane Road, Devpur,  
Dhule, Dist-Dhule.

**...APPLICANT**

**VERSUS**

The State of Maharashtra,  
Through Dhule Taluka Police  
Station, Dhule, Dist-Dhule.

**...RESPONDENTS**

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Mr. N.L. Choudhri Advocate for Applicant.  
Mr. S.J. Salgare, A.P.P. for Respondent No.1.  
Ms. Monica Dahat Advocate h/f. Mr. Swapnil  
S. Patil Advocate for the informant for  
assist to A.P.P.

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**CORAM: S.S. SHINDE, J.**

**DATE : 5TH JUNE, 2017**

**ORAL ORDER :**

1. Rule. Rule made returnable forthwith and heard finally with the consent of the learned counsel appearing for the parties.

2. This Application is filed praying therein to release the Applicant on bail in connection with Crime No.11 of 2017 for the offences punishable under Section 420, 465, 467, 468, 471, 120-B of the Indian Penal Code, 1860 registered with Dhule Taluka Police Station, Dhule, Dist-Dhule.

3. This Court by order dated 2nd May, 2017 issued notice to the Respondent - State.

4. Heard learned counsel appearing for the Applicant and learned A.P.P. appearing for the State assisted by the learned counsel appearing for the original informant.

5. It is argued by the counsel appearing for the Applicant that except alleged offence punishable under Section 467 of the Indian Penal Code, for all other alleged offences maximum punishment is of seven years. He submits that

the Applicant was running the hotel at disputed place since 1994. Grampanchayat Morane passed resolution allowing the Applicant to use the said land for the purpose of running the hotel since 1994. It is submitted that an allegation of preparation of forged resolution by the Grampanchayat can at the most attributed to the then Sarpanch and the members of the Grampanchayat and by no stretch of imagination said allegation can stand against the Applicant. In his submission, the Applicant had no role in preparation of said resolution or legally he is not entitled to participate in passing such resolution and therefore the allegation in the First Information Report, which would attract ingredients of Section 467 of the I.P. Code cannot be attributed to the present Applicant. He submits that almost investigation is complete against the Applicant. Applicant is in custody since 13th April, 2017. There is no reason to continue him in the custody. The Applicant is ready to co-operate for further investigation. The Applicant is ready

to abide by any conditions which would be imposed by this Court while releasing him on regular bail. He further submits that pursuant to the order passed by Tahsildar, already the tin-shed which was constructed to run the hotel, has been demolished. Learned counsel, on instructions, further submits that the Applicant may challenge the order passed by the Tahsildar, however he will not attempt to again re-built/ re-construct the tin-shed so as to run the hotel. Therefore learned counsel submits that the Applicant be released on bail.

6. On the other hand, learned A.P.P. appearing for the State invites my attention to the investigation papers and submits that investigation papers would clearly demonstrate that at the instance of the Applicant and for his benefit the forged resolution was prepared and there is no any record available in the Grampanchayat about the said resolution. He submits that there is clear involvement of the

Applicant in preparing forged document in the nature of Grampanchayat resolution. He further submits that even present Applicant threatened the concerned police officer and if the Applicant is released on bail, he may again indulge into alleged illegal activities and may tamper with the prosecution witnesses and evidence. He further submits that, other co-accused including son of the Applicant are absconding and for the said reason also the Applicant may not be enlarged on bail.

7. Upon hearing counsel appearing for the Applicant and the A.P.P. appearing for the State assisted by the counsel appearing for the original informant and upon perusal of the allegations in the First Information Report and in particular about preparation of forged Grampanchayat resolution, in my prima facie opinion, Applicant cannot be said to be participant or had any say in passing resolution by the Grampanchayat. It appears that the Sarpanch and Gramsevak of the

Grampanchayat are already made accused, however they are absconding. It appears that during the course of an enquiry by the Tahsildar, concerned Sarpanch and Gramsevak stated that, resolution was passed by the Grampanchayat, however, they disputed the date of passing of such resolution. In my opinion, since the Applicant is in jail since 13th April, 2017, the Investigating Officer had sufficient opportunity to cause the interrogation of the Applicant. It is informed by the learned A.P.P. that the Applicant is in Magisterial custody. In that view of the matter, further custodial interrogation of the Applicant is not necessary. Hence the following order:-

**O R D E R**

(I) The Applicant shall be released on bail on furnishing P.R. Bond in the sum of Rs.50,000/-(Rupees Fifty Thousand) with one solvent surety of like amount.

(II) The Applicant shall not tamper

with the prosecution witnesses or evidence.

(III) The Applicant shall not enter the village Morane (Pra. La.), Tq. and Dist-Dhule till filing of the charge-sheet by the Investigating Officer.

(IV) The Applicant shall not indulge in any such similar acts.

(V) The Applicant shall not leave the Country without prior permission of the authority/Court.

8. The Criminal Application is allowed and the same stands disposed of accordingly. Rule is made absolute in above terms.

9. The observations made herein above are prima facie in nature and confined to the adjudication of the present Application and shall not be used in any other proceedings.

**[S.S. SHINDE, J.]**