

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

CRIMINAL APPLICATION NO. 3034 OF 2017

Vijaya w/o Dattatraya Regulwar APPLICANT.

V E R S U S

The State of Maharashtra ... RESPONDENT

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Mr. N.B.Khandare, Advocate h/f
Mr.S.S.Gangakhedkar, Advocate for the applicant
Mr.S M Ganachari A.P.P for respondent-State

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CORAM : V.K. JADHAV, J.

DATE : 10th AUGUST, 2017

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PER COURT :-

1] The applicant is seeking pre arrest bail in connection with Crime No.221 of 2017 registered at Police Station, Khultabad Tq. Khultabad Dist. Aurangabad for the offences punishable under sections 420, 464,465,468, 471, 477-A r/w 34 of Indian Penal Code.

2] The application with similar prayer bearing Criminal Bail Application No. 1062/2017 is rejected by I/c Additional Sessions Judge-2, Aurangabad vide order dated 14.06.2017.

3] On the basis of the complaint lodged by one Manish Navlu, Assistant Superintendent of Post Office [North sub Division], Aurangabad, aforesaid crime came to be registered. It has been alleged in the complaint that, the present applicant was serving as Sub Post Master at the Post Office Verul from 16.06.2015 to 05.06.2017. Complainant has conducted inquiry in connection with the letter dated 02.06.2017 received by him from the Divisional Post Office, Aurangabad. Along with present applicant he has also conducted inquiry in respect of Postal Assistant Shri. Ganesh Shivraj Kadam, who was working in the said post office from 10.03.2014 till 05.06.2017. Both of them were assigned certain duties to work at counter etc. Certain complaints were received from the Account holders about misappropriation of the amount deposited by them with one Rajendra Vinayak Varkad.

The said Rajendra Vinayak Varkad has introduced his wife being an agent for collection of money from the customers in Verul town and surrounding area. He was assigned duty in respect of opening of saving accounts and term deposits with the Postal Department of the concerned customers. It was revealed during the course of inquiry that certain account holders though deposited amount under Post Savings Scheme through the said agent in their postal account, said amount never credited to the account of those customers. There is misappropriation of the amount of Rs. 26,25,000/- by the present applicant and the said Postal Assistant Mr. Ganesh Shivraj Kadam. Though it is not so mentioned in the F.I.R, it is an admitted fact that said agent Rajendra Varkad had committed suicide before initiation of the said inquiry by the department. On the basis of these allegations the applicant is apprehending her arrest at the hands of the police. Hence this application.

4] The learned counsel for the applicant submits that, from the contents of the First Information Report

it is spelt out that the present applicant being a Sub Post Master is not suppose to keep in her custody seal stamp, abluck stamps, the Date stamp and as per sub Rule 21 of the *Posts And Telegraphs Manual* the said stamps and seals are required to be kept in the custody of Senior Clerk on duty. As per sub rule (2) of the Rule 21 *the clerk in charge of each department is personally responsible for the safe custody of the stamps and seals entrusted to him during working hours, and will be held answerable if any improper use is made of them.* The learned counsel submits that Senior Superintendent of Post Office by its letter dated 16.06.2017 informed to Senior Postmasters, Aurangabad H.O and Postmaster Jalna H.O and all S.P.M's in Aurangabad Division, that Date Stamp No.1 and Date Stamp No.2 of Ellora SO-431102 were misused by Rajendra Vinayak Warkad GDSMD Ellora SO for committing suspected fraud in different accounts under post saving scheme during his working period and hence the same are taken into custody from Ellora SO and other date stamp bearing EXHI No.H-423 being used at Ellora SO since 07.06.2017. Further, Superintendent of Post Office,

Aurangabad Division, Aurangabad by letter dated 12.06.2017 also communicated to The District Collector, Small Savings Section, Collector Office, Aurangabad that one Smt. Sunita w/o late R.V.Warkad GDSMD Ellora Post Office allowed her husband late Shri. R.V.Warkad to perform agency work on behalf of her unauthorizedly and main offender late Shri. R.V.Warkad and his wife Smt. Sunita Rajendra Warkad are found involved in mis-appropriation of huge amount of public. She and her husband has un-authorizedly used Ellora Post Office date stamp and impressed into passbook of various categories of postal saving scheme and consequently collected huge deposits from the people at large in the Ellora Post Office. The learned counsel submits that, on the basis of said communication, District Collector Aurangabad, has canceled the agency of the said Sunita Rajendra Warkad and Rajendra Warkad and informed the same to the said Sunita Rajendra Warkad by letter dated 13.06.2017. The learned counsel submits that Department has accepted unequivocally that the said Warkad family was responsible for the mis-

appropriation. The learned counsel submits that applicant has been made scape goat in the entire process and accordingly complaint came to be lodged against her.

5] Learned A.P.P has strongly resisted the application on the ground that, it spells out from the complaint itself that, the applicant being Sub Post Master should keep Date Stamps, seal stamps and other stamps in her personal custody and she is responsible for the same in her personal capacity. The learned APP submits that the use of Ellora Post Office Date Stamps and impressing it on the pass book of various categories of postal savings scheme of the depositors is not possible without active participation of the present applicant in the crime. During the course of the inquiry, it was revealed that, the said agent was allowed to handle the office stamps which is supposed to be in the personal custody of the present applicant being S.P.M (Sub Post Master) and accordingly the applicant came to be suspended. The complaint was also filed against her, noticing her participation in the

crime.

6] Learned APP submits that during the course of investigation, the statement of one of such depositor namely Kishor Kale came to be recorded by the Investigating Officer and he has stated in his statement that he deposited Rs. One Lakh in the Saving Account and handed over the amount to said late Rajendra Warkad in presence of the applicant and Postal Assistant i.e. co-accused Ganesh Kadam. He has also stated in his Police statement that 20 to 25 minutes after depositing the said amount, agent Rajendra Warkad has given him pass book with entry of such deposit of amount with postal seal and stamp. The learned APP submits that, amount is yet not recovered. He further submits that, there is strong prima facie case against the applicant, her custodial interrogation is required. Thus application is liable to be rejected.

7] On careful perusal of the contents of the F.I.R I find that duties assigned to the applicants are clearly spelt out. It has been specifically stated in the

complaint that, along with some other valuables all sort of Date Stamps, Seal Stamps and other stamps shall be kept in the personal custody of the applicant along with blank pass book stock, accountable book etc. and responsibility of the Postal Assistant i.e. co-accused Ganesh Kadam is extended only when he is working on the counter and the duties are mainly assigned to him about withdrawal, acceptance of all types of economic transactions, opening of new account etc. So far as the Rule 21 of the of the Posts And Telegraphs Manual is concerned, at this stage in the light of Rule 21 the allegations made in the complaint cannot be appreciated. It further appears from the contents of the complaint, who happened to be Assistant Superintend Post Office [North sub Division], Aurangabad, has lodged the complaint on the basis of communication in writing by the Senior Superintendent of the Post Office.

On perusal of the said communication dated 09.06.2017, it appears that Senior Superintendent of Post Office, Aurangabad has observed that, GDS official might have utilized the used up passbook and issued to the depositors. As per rule on the subject all

blank pages in the used up passbooks should be cancelled and half teared passbooks should be handed over to the depositors at the time of closure. Due to non observance of this procedure, it might have facilitated the GDS to commit fraud. It has also specifically observed that, GDS might have allowed to access of the stock of blank passbook supposed to be held in personal custody of the Sub Post Master/PA which might have facilitated the GDS to commit fraud by utilizing blank passbooks. It has also been observed that GDS might have allowed to handle office date stamp which is supposed to be held in personal custody of the present applicant and co-accused, which might have facilitated the GDS to commit fraud by impressing date stamp on passbooks.

8] On perusal of the statement of witness Kishor Kale recorded during the course of the investigation, it appears that said witness has deposited an amount of rupees one lakh in presence of the applicant and co-accused through agent Rajendra Warkad and within 20-25 minutes Rajendra Warkad has handed over him

a pass book with entry about the deposit of the said amount with postal seal and stamp. It prima facie indicates the involvement of the applicant in the alleged crime. Prima facie, there is strong case against the applicant. The amount is yet not recovered. It is also not clear as to in what manner those stamps, pages of used pass books and other relevant papers given to the said Rajendra Warkad and those documents came to be used for misappropriating the hard earned amount of customers. Therefore, I am not inclined to grant anticipatory bail to the applicant. In view of the above discussion, application is liable to be rejected. Hence, the following order.

ORDER

i] Application is hereby rejected.

9] The learned counsel for the applicant submits that, applicant was protected by interim order dated 21st June 2017 and same should be continued for a further period of three weeks, so as to enable the applicant to approach to the Supreme Court.

10] The learned APP submits there is strong prima facie case against the applicant and progress of the investigation is stalled due to interim order passed in favour of the applicant. Considering the nature and serious allegations leveled against the applicant, I am not inclined to consider this request. The request stands refused.

11] Application accordingly disposed of.

[V. K. JADHAV, J.]

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AAA/Cri. Appln. 3034/2017