

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.163 OF 2017

Mayank Nikunjilal Shah Applicant

versus

State of Maharashtra ... Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.168 OF 2017

Laxman Bhimrai Biradar Applicant

versus

State of Maharashtra ... Respondent

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- Mr.M.K. Kocharekar, Advocate for the Applicant in ABA No.163/17.
- Mr.S.D. Butala, Advocate i/b. Harshad Bhadhade, Advocate for Applicant in ABA No.168/17.
- Mr.Deepak Thakre, APP for the State in ABA No.163/17.
- Mr.Sooraj S. Hulke, APP for the State in ABA No.168/17.
- API – Mr.B. Naikwade, Chiplun Police Station, Ratnagiri.

**CORAM : MRS.MRIDULA BHATKAR, J.
DATE : 28th FEBRUARY, 2017.**

P.C. :

1. In these two applications a common order was passed
on 02/02/2017 granting interim protection to applicants/

Nesarikar

accused. At that time was directed that the applicants/accused were to be interrogated by police and also to check the relevant resolutions passed by Gram Sabha or Government in respect of the pipeline and construction of water tank. In brief these applicants/accused are facing charges of misappropriation of public money.

2. One of the applicants/accused is the Executive Engineer, who was supposed to be the incharge of laying of water pipeline and the other applicant/accused is a contractor. It is the case of prosecution that though entire work of Rs.49,60,585/- was sanctioned for laying pipeline, though only 51 % work was done, the Executive Engineer has certified that work of 90% is done and so amount of Rs.38,36,408/- was disbursed. Thus, there was a difference of nearly Rs.14,00,000/- for the undone work of the pipeline.

3. It was argued that as per the resolution passed by Gram Sabha, though there was no budgetary arrangement made

for construction of two water tanks, it was resolved that the pipes which are in good conditions are not to be replaced and only the pipes which are in bad conditions were to be laid and the amount which is going to be saved was to be utilized for the construction of the water tanks. The learned counsel for the applicant/accused pointed out the said resolution dated 25/08/2014.

4. Today original register of the said Gram Sabha of Village Borgaon, Taluka Chiplun, District Ratnagiri, is produced and it shows that such resolution was passed by Gram Sabha. It is pointed out by the learned prosecutor that one more resolution No.10 dated 11/05/2015 was produced before the Court. A certificate reproducing the said resolution was issued by Sarpanch Mr.Ramesh Ganpat More and one Gram Sevak. However, after perusal of the original register and as pointed out by the learned prosecutor, the said resolution appears to be added subsequently. As per the statement of the proposer and supporter of the said resolution Mr.Vilas Sitaram Salunkhe and

Mr.Dhandatt Sitaram Mohite, no such resolution was ever passed by the Gram Sabha. However it is internal matter of Gram Sabha. So far as the role of Executive Engineer is concerned, the resolution passed on 25/08/2014 is prima facie relevant.

5. In view of this, the earlier order of interim bail is hereby confirmed with the same bail bonds with further directions that both the applicants/accused shall attend the police station as and when called by the police till filing of the charge-sheet.

(MRIDULA BHATKAR, J.)