

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

**BAIL APPLICATION NO.665 OF 2017
with
CRIMINAL APPLICATION NO.310 OF 2017**

Devidas Anandrao Pingle

... Applicant

Vs.

The State of Maharashtra

.. Respondent

Mr.Aniket Nikam i/b Aashish Satpute for the Applicant

Mr.Deepak Thakre, APP, for Respondent – State

Mr.S.V. Kotwal i/b Sachin Gite for Intervener in APPP/310/2017

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: APRIL 5, 2017

P.C. :

1. The bail application is moved by the applicant/accused for bail under section 437 of the Criminal Procedure Code, as the applicant/accused is facing charges under section 7, 13(1)(a), (d), (e) and 13(2) of the Prevention of Corruption Act, 1988 and under section 109 of the Indian Penal Code in C.R. No.210 of 2016 registered with Mhasrul Police Station, District Nasik. During his tenure and in his capacity as a Chairman, he abused his position and by pressurising the employees of the Agricultural Produce Market Committee (APMC) and he tried to gain illegal gratification

of Rs.57,73,800/-. In order to secure this amount, he adopted illegal means in a very peculiar manner. It is the case of the prosecution that one Dyaneshwar Tukaram Dhonde, Police Inspector, Anti Corruption Bureau (ACB), Nasik, had received secret information from the higher officers of the ACB that on 25.10.2016 at around 1600 hours to 2000 hours, some officers of the APMC, Nasik will be travelling in one private car i.e, Swift Dzire bearing No.MH-15-CM-2180 with illegal cash of Rs.40 to Rs.50 lakhs from the R.T.O. Chowk Peth road, Nasik towards Nagar road. It was informed that the said amount is disproportionate to their known source of income and, therefore, the complainant alongwith the other officers and panchas laid trap and they stopped the vehicle. They recovered a plastic bag full with bundles of Government Currency (G.C.) notes. The persons, who were carrying the G.C. Notes were Digambar Hiranman Chikhle - Clerk, Arvind Hukumchand Jain - accountant and one Vijay Sitaram Nikam, a steno-typist. They were taken to the police station and after counting, cash amount of Rs.55 lakhs was found in the bag and further cash amount of Rs.2,73,800/- was found on the person of the co-accused Arvind Jain. However, the persons, who were apprehended, could not explain as to why that amount was

withdrawn and why they were in possession of the said amount. However, during the course of interrogation, it was found that the said amount was the amount of Dearness Allowance that was granted and payable to the employees of the APMC under the Sixth Pay Commission. It was also found that nearly 150 employees had received due of the dear allowance and bonus and the present applicant/accused who is the Chairman of APMC has pressurized the employees and have demanded a cut in the said difference of the dearness allowance from the persons in the employment of APMC. The employees working in the APMC were succumbed to the pressure of the applicant/accused as they were threatened of harassment, departmental enquiry, suspension and transfer and therefore they agreed to pay him money. Thus, the applicant/accused with the help of other accused asked the employees to issue blank cheques and the amount from all these employees was collected. These amounts were withdrawn by bearer cheques and the said cash was taken by the co-accused when they were arrested. The applicant/accused was arrested on 21/12/2016. He is in the prison since then. Hence, this Bail Application.

2. The learned Counsel for the applicant/accused submitted that this applicant/accused is in the prison since 21.12.2016. The police have filed chargesheet on 18.2.2017. Thereafter, the applicant/accused has applied before the learned Sessions Judge, however, the Bail Application under section 439 of the Criminal Procedure Code was rejected the learned Sessions Judge on 7.3.2017. He submitted that now the investigation is over and the applicant/accused can remain outside the city of Nasik and also abide by the terms and conditions imposed by this Court, if at all the applicant/accused is granted bail. The learned Counsel, on instructions, submits that the applicant/accused shall also not participate in the administration of the APMC, Nasik. He undertakes, on instructions, that the applicant/accused shall not attend any board meetings or deal with the financial matters of the APMC, Nasik.

3. Learned Prosecutor while opposing the Bail Application, has submitted that this is a case of corruption where a Chairman of the APMC, Nasik is involved. The offence is committed in a very peculiar manner by pressurising the employees of the APMC. The money was collected. He relied on the order passed by this Court

dated 13.2.2017 by which the Bail Application of the applicant/accused bearing No.2645 of 2016 was rejected. He pointed out that this Court while rejecting the application has, after going through the facts of the case and the allegations made against the applicant/accused and the manner in which the offence was committed, taken a view that the Court was not inclined to treat the case as a routine case. It has also observed that the Chairman of the APMC, Nasik, has misused his authority by putting pressure on the employees of the APMC, Nasik. He submitted that if at all, the applicant/accused is released on bail, then, he is likely to threaten and pressurise the employees of APMC, Nasik, as he is still working as a Chairman of the APMC, Nasik. He further submitted that he has not resigned from the post and, therefore, he is likely to tamper with the evidence and hence, he is not to be bailed out.

4. Heard the learned Counsel for the parties. Perused the documents before me. Undoubtedly, a very innovative but illegal method was adopted by the applicant/accused for collecting money, which in fact is legally payable and due to the employees of the APMC, Nasik. For that reason, no bail was granted before

filing of the chargesheet. A sufficient time was required to be given to the Investigating Officer. The witnesses, who are the employees in APMC should feel free to come forward and give statements before the police. The custody of the applicant/accused was necessary prior to filing of the chargesheet so that the witnesses feel assured and come forward to give statements. However, today the chargesheet is filed. The statements of the employees who were compelled to part with their dearness allowance amounts, are also recorded as investigation is complete, hence, bail can be granted under Prevention of Corruption Act.

5. It is a case under Prevention of Corruption Act and the witnesses are from the same establishment where the applicant/accused is still working as a Chairman. This fact is to be taken into account and accordingly, the terms and conditions of bail are to be imposed. The learned Prosecutor has also expressed apprehension that the applicant/accused is still enjoying the position of Chairman, APMC, Nasik and he is likely to pressurise the witnesses. The applicant/accused has a permanent residence so he is not likely to jump the bail and hence, the Bail Application is allowed on the following terms and conditions:

ORDER

- a) The applicant-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.40,000/- (Rupees Forty thousand only) with one or two solvent sureties in the like amount;
- b) The applicant/accused shall not participate in the administration, shall not take part in the financial matters and also to restrain from attending the board meetings of the APMC, till the trial is over.
- c) The applicant/accused shall remain outside the city of Nasik for a period of four months.
- d) The applicant-accused shall not tamper with the evidence or pressurise the complainant or the witnesses;
- e) The applicant-accused shall not indulge into any criminal activity and shall attend on all the Court dates;
- f) The applicant-accused shall not abscond or leave India without prior permission of the Court and furnish his

permanent address to the Investigating Officer alongwith documentary proof of his address.

e) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

6. The Bail Application is disposed of accordingly on the above terms.

7. In view of the disposal of the Bail Application, the application for intervention does not survive and the same is disposed of.

(MRIDULA BHATKAR, J.)