

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRI. APPLICATION (ABA) NO. 564 OF 2016

(MISHRILAL RAMLAL KAKADE...VS.. STATE OF MAH. THR. P.S.O. PS CHANDUR BAZAR, DIST.
AMRAVATI)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.V.Sirpurkar, Advocate for applicant.
Shri A.D.Sonak, A.P.P. for Non-applicant.

CORAM : Z.A.HAQ, J.

DATED : JUNE 13, 2017.

Heard.

The applicant, apprehending arrest in crime registered against him and two others for the offences punishable under Sections 420, 467, 468, 471, 409, 120-B read with Section 34 of the Indian Penal Code, has sought pre-arrest bail.

The crime is registered on the complaint lodged by Shri Gautam Gopalrao Walde, District Deputy Registrar, Co-operative Societies, Amravati stating that the applicant and the other two accused have dishonestly prepared false documents and defrauded the State Government of Rs.28,12,548/-. According to the Investigating Agency as per policy of the State Government the amount given to the farmers by the licenced money lenders towards loan was to be repaid by the State Government and to ascertain the genuineness of the transactions the State Government came out with a mechanism as per the Government Resolution dated 10th April, 2015. As per this mechanism the claim is to

be verified by the Deputy / Assistant Registrar, Co-operative Societies and the Auditor Grade-I / Grade-II, Co-operative Societies.

The application is opposed on the ground that investigation is in progress and the departmental enquiry against the applicant is also going on.

The learned advocate for the applicant has submitted that the main accused Rajendra Khushalrao Langote (money lender) is granted pre-arrest bail by this Court by order passed in Criminal Application (ABA) No. 570 of 2016 on 7th June, 2017. It is further submitted that co-accused Kishore Shriramji Balinge (Assistant Registrar, Co-operative Societies) is also granted pre-arrest bail by this Court by the order passed in Criminal Application (ABA) No. 568 of 2016. Relying on the above orders it is submitted that the applicant is entitled for pre-arrest bail as the duty entrusted to the applicant by the Government Resolution dated 10th April, 2015 is only to calculate whether the amount of interest claimed by the money lender is proper or not. Relying on the provisions of Section 24 of the Maharashtra Money Lending (Regulation) Act, 2014 and Rule 18 of the Maharashtra Money Lending (Regulation) Rules, 2014 it is submitted that the documents are to be supplied to the Deputy / Assistant Registrar, Co-operative Societies by the money lender and the duty to verify genuineness of the claim of the money lender is of the Deputy / Assistant Registrar of the Co-operative Societies. It is submitted that the applicant is granted interim protection by this Court by the order passed on 1st September, 2016 and the Investigating Agency has not complained that the applicant has misused the protection. It

is further submitted that the applicant has co-operated with the Investigating Agency and the Investigating Agency has not been able to point out that the custody of the applicant is required for further investigation.

The submission made on behalf of the applicant relying on the provisions of Section 24 of the Act of 2014 and Rule 18 of the Rules of 2014 *prima-facie* is misdirected and in any case cannot be considered at this stage. The above provisions lay down that the auditor who is part of the committee has to verify the genuineness of the claim of the money lender.

The applicant relies on the order passed in Criminal Application (ABA) No. 570/2016 on 7th June, 2017 by which pre-arrest bail is granted to Rajendra Khushalrao Langote(money lender), to support the claim for grant of pre-arrest bail.

The tenor of the order shows that one of the considerations for granting pre-arrest bail to Rajendra Khushalrao Langote is that the Investigating Agency had not pointed out that departmental enquiry is initiated or proposed against other two co-accused who are government servants out of whom one is present applicant. In paragraph 7 of the reply filed before this Court in the present application, the Investigating Officer has stated that departmental enquiry is going on against the present applicant. As the facts show that the order in Criminal Application (ABA) No. 570 of 2016 is passed relying on the misrepresentation by the parties to that application, the applicant cannot take benefit of that order. Similarly, the order passed in Criminal Application (ABA) No.

568 of 2016 on 19th October, 2016 by which pre-arrest bail is granted to Kishore Shriramji Balinge (Assistant Registrar, Co-operative Societies) is also not of any assistance to the applicant as the relevant Government Resolution dated 10th April, 2015 was not pointed out to the Court when the order is passed granting bail to Kishore Shriramji Balinge.

Be that as it may, considering the facts as recorded above and the nature of the accusations against the applicant, I am not inclined to grant the prayer made in the application.

The application is **dismissed**.

As the applicant has enjoyed the interim protection granted by this Court by the order passed on 1st September, 2016, the applicant is directed to surrender within two weeks, failing which his conduct may be noted at all stages of the proceedings.

In the order passed in Criminal Application (ABA) No. 570 of 2016 on 7th June, 2017 it is recorded that according to the parties departmental enquiry is not initiated and is not proposed against two co-accused who are government officers. It is clear that pre-arrest bail is granted to Rajendra Khushalrao Langote because of the misrepresentation by the parties.

Therefore, I feel it appropriate to issue notice to Rajendra Khushalrao Langote, Resident of Chandur Bazar, District : Amravati, to show cause why order passed on 7th June, 2017 granting pre-arrest bail should not be recalled and the pre-arrest bail granted to him should not be cancelled.

The proceedings of show cause notice shall be registered separately.

Shri A.D. Sonak, learned Additional Public Prosecutor shall intimate the Investigating Officer that this notice shall be served on Rajendra Khushalrao Langote before the returnable date.

Rajendra Khushalrao Langote shall file reply, if so advised, till 30th June, 2017.

List the application for further consideration on **10th July, 2017.**

The office of Public Prosecutor is directed to allot the matter to the same Additional Public Prosecutor who represented the State of Maharashtra in Criminal Application (ABA) No. 570 of 2016.

JUDGE

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