

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR**

**CRIMINAL APPLICATION (ABA) NO.611/2017**

Chandrashekhar s/o Daulatrao Belkhede ..vs.. State of Maharashtra thr.  
Officer In-charge, Khaparkheda Police Station, Tq. Saoner, Dist. Nagpur.

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

Court's or Judge's orders.

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Mr. A. N. Ansari, Advocate for applicant.  
Mr. T. A. Mirza, A.P.P. for non applicant-State.

**CORAM : V.M. DESHPANDE, J.**  
**DATED : AUGUST 29, 2017**

Heard Mr. A. N. Ansari, Advocate for  
applicant and Mr. T.A. Mirza, A.P.P. for non  
applicant-State.

Present is the application under Section  
438 of the Code of Criminal Procedure for grant of  
pre-arrest bail in view of the apprehension on the  
part of the present applicant that he is likely to be  
arrested in connection with Crime No.371/2017  
registered with Police Station, Khaparkheda, Dist.  
Nagpur for an offence punishable under Section 409,  
420 read with Section 34 of the Indian Penal Code.

Undisputed facts that emerge after  
hearing the learned counsel for the applicant and the  
learned A.P.P. are as under:

The applicant is Gram Sevak and  
presently he is discharging his duties as such at  
Panchayat Samiti, Narkhed.

The applicant was Gram Sevak at Dahegaon Gram Panchayat from September-2000 to September-2001. In October-2001, the applicant was placed under suspension. After holding departmental inquiry, the applicant's services were terminated by the competent authority on 06.02.2004. Feeling aggrieved by the said termination, the applicant preferred statutory appeal before the appellate authority i.e. Divisional Commissioner, Nagpur. On 03.10.2011 the Divisional Commissioner allowed the appeal and revoked the order terminating the services of the applicant as Gram Sevak. Though the appeal was allowed in the year 2011, only on 05.04.2013, the order was granted in favour of the present applicant to join the services at Panchayat Samiti, Narkhed and accordingly on 16.04.2013, the applicant joined his services and as on today he is discharging his duties as such.

With the aforesaid undisputed facts kept in mind, now let us examine the prosecution case insofar as the present applicant is concerned.

The FIR is lodged by Smt. Manik Dinkar Himane, Block Development Officer, Panchayat Samiti, Saoner with Police Station, Khaparkheda on 17.07.2017. On the basis of the said written report,

an offence punishable under Section 409, 420 read with Section 34 of the IPC is registered vide Crime No.371/2017 against the present applicant and other co-accused.

The report as lodged by the first informant shows that the Chief Executive Officer, Zilla Parishad, Nagpur had on 20.08.2016 appointed a committee consisting of 4 members to inquire into the irregularities committed at Dahegaon Gram Panchayat. The period of inquiry is 01.04.2013 to 18.08.2016 and there is no dispute about this particular fact by the prosecution. The committee was constituted under the orders passed by the Chief Executive Officer, Zilla Parishad, Nagpur and inquiry report was also presented. The said is placed on record along with this application and though the report is from page no.18 to 30 of the compilation, insofar as the indictment of the present applicant is concerned that can be noticed at page no.25, item no.12, which is in respect of the grants for supply of water. According to the inquiry report, when the committee examined the cash books for the year 2013 to 2014 in respect of the said, as per the balance of 01.04.2013, Rs.4,895/- was shown outstanding against the present applicant and that is the only indictment of the applicant by the inquiry committee insofar as the present applicant is concerned.

Since, it is not disputed that the applicant was terminated in the year 2004 and when he was reinstated and granted posting in the year 2014 that too at Panchayat Samiti, Narkhed, there was no occasion for the present applicant to have his presence at Gram Panchayat, Dahegaon. Further, after the report of the inquiry committee, the applicant received a show cause notice from the Chief Executive Officer, Zilla Parishad, Nagpur on 27.09.2016 whereby the applicant was called upon to offer his explanation about the outstanding amount of Rs.4895/- failing which a show cause notice was given as to why the disciplinary proceeding should not be initiated against the applicant. After receipt of the said show cause notice, the applicant has given his reply on 15.10.2016 which is also placed on record at Annexure-6 of the compilation. The applicant has denied the contents of the show cause notice however without prejudice to his rights, he has already deposited an amount of Rs.4895/- with the Gram Panchayat, Dahegaon and the receipt issued by the Block Development Officer, Gram Panchayat, Dahegaon acknowledging the receipt of the said amount is also placed on record.

Since according to the prosecution the defalcation of the amount and fabrication of the documents occurred between 01.04.2013 to

18.08.2016, the present applicant cannot be held responsible at least prima facie since during this particular period, there was no occasion for him to have his presence at Gram Panchayat Dahegaon.

The reply filed by the State though shows happening of serious things in respect of the fabrication of the documents, in view of the aforesaid discussion, it is crystal clear that the applicant cannot be held responsible for the same.

In that view of the matter, the applicant has made out a prima facie case in his favour for pre-arrest bail. Further, the learned A.P.P. also besides his aforesaid submissions, could not point out anything to attribute the role of the present applicant in respect of the misdeeds, acts and omissions during the period of 01.04.2013 to 18.08.2016 resulting into financial losses to the Government.

The aforesaid discussion leads me to pass the following order.

**ORDER**

(i) Criminal Application No.611/2017 is allowed.

(ii) In the event of arrest in connection with Crime No.371/2017 for an offence punishable under Sections 409, 420 read with Section 34 of the Indian Penal Code registered with Police Station, Khaparkheda, Dist. Nagpur, the applicant-Chandrashekhar s/o Daulatrao Belkhede be released

on bail on he executing P.R. Bond in the sum of Rs.25,000/- with two solvent sureties in the like amount.

(iii) The applicant shall attend Police Station, Khaparkheda on every Sunday in between 2.00 p.m. to 5.00 p.m. till the filing of the charge-sheet and extend his full cooperation to the investigating officer.

(iv) The applicant shall not cause any act which results into prejudice to further investigation of the crime and the prosecution case.

The application stands disposed of accordingly.

**JUDGE**