

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [ABA] No.698 of 2017
[Gopal Lahanu Ramekar Vs. State of Mah., PS. Khaparkheda, Distt. Nagpur]

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

Court's or Judge's orders

Mr. A. N. Ansari, Adv., for the Applicant.
Mr. T. A. Mirza, APP for respondent.

CORAM : A. S. CHANDURKAR, J.

DATE : 11th October, 2017

The applicant apprehends his arrest in connection with Crime No. 371 of 2017 registered at Khaparkheda Police Station, Tq. Saoner, Distt. Nagpur, for the offences punishable under Sections 409 and 420 read with Section 34 of the Indian Penal Code.

As per the First Information Report [FIR] lodged on behalf of the Chief Executive Officer, Zilla Paishad, Nagpur, a four-member Committee was constituted to enquire into alleged irregularities in the works undertaken on behalf of the Gram Panchayat. A report to that effect was submitted on 29th August, 2016. As per the said report, it is alleged that certain purchases have been made by the Gram Panchayat which, after enquiry, revealed that they were based on false documents. On that basis, an FIR came to be lodged

implicating the present applicant who was the Sarpanch at the relevant time along with four others.

It is submitted by the learned counsel for the applicant that pursuant to the aforesaid enquiry report, initially no action was taken by the authorities. A non-cognizable report was registered on that basis. Subsequently, on the basis of another report, the present crime came to be registered. Referring to the judgment of the Division Bench dated 18th September, 2017 in Criminal Application No. 510 of 2017, it is submitted that in so far as the applicant therein is concerned, this Court has observed that there was no material against that applicant and hence the FIR came to be quashed. It is submitted that the entire material is now with the Investigating Officer and hence custodial interrogation is not warranted.

The application is opposed by Shri T. A. Mirza, learned Addl. Public Prosecutor, by relying upon the reply. It is submitted that the statement of one Ramrao Gomase has been recorded in which he has stated that certain purchases shown to have been made from his shop were in respect of items that were actually not sold by him. It is, thus, submitted that there is prima facie material against the applicant and he is not entitled for protection.

Perused the First Information Report as well as

the prosecution papers.

The crime in question was preceded by an enquiry that was conducted by a four-member committee. This report is dated 29th August, 2016. As noted above, the Division Bench in Criminal Application No. 510 of 2017 considered challenge to the same FIR at the instance of one of the accused. In paragraph 8 of the said judgment, it has been observed that after perusing that report, there was no finding that any member of the Gram Panchayat had misappropriated the funds. This observation can be found even subsequently in the said judgment. The statement of said Ramrao Gomase was not recorded when that enquiry was conducted. It appears that subsequently this material has been collected.

Be that as it may, since the crime is based on the aforesaid enquiry report and as the documentary material forming part of the crime is with the Investigating Officer, I find that the applicant is entitled for protection. He can be directed to co-operate with investigation by imposing conditions.

Accordingly, in event of applicant's arrest in crime No. 371/17 registered at Khaparkheda Police Station, Tq. Saoner, Distt. Nagpur, for the offences punishable under Sections 409 and 420 read with Section 34 of the Indian Penal Code, he shall be released

on bail on furnishing a Personal Bond of Rs. 20,000-00 [rupees twenty thousand only] with one surety in the like amount. He shall attend the concerned Police Station on 25th October, 2017 and thereafter as per the directions of the Investigating Officer. No steps be taken to influence the prosecution witnesses.

As it is submitted by the learned APP that the judgment of the Division Bench in Criminal Application No. 510 of 2017 is sought to be further challenged, in the event any orders in favour of the State are passed, it is always open for the Prosecution to take appropriate steps in the present matter.

The observations made in this order are only for deciding this pre-arrest bail application.

Application is disposed of.

Judge