

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

CRIMINAL APPLICATION (BA) NO.986 OF 2016
VANGA PEDDAMULLA VELADI

..VS..

**STATE OF MAHARASHTRA THR. POLICE STATION OFFICER, POLICE
STATION RAJARAM KHANDLA TAH. AHERI, DISTRICT GADCHIROL**

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

Court's or Judge's Order

Shri S.V. Sirpurkar, counsel for the application.
Shri C.A. Lokhande, Addl.P.P. for the non-applicant/State.

CORAM : P.N. DESHMUKH, J.
DATED : JANUARY 4, 2017.

Heard learned counsel Shri S.V. Sirpurkar
for the applicant and learned Additional Public
Prosecutor Shri C.A. Lokhande for the non-
applicant/State.

This is an application for grant of bail by the
accused involved in Crime No.3 of 2016 registered with
Police Station Rajaram (Khandla), District Gadchiroli for
the offences punishable under Sections 420, 409, 465,
468, and 471 of the Indian Penal Code contending that
involvement of the applicant in the alleged offences is
not established at all and also on the ground that
though according to the case of the prosecution
mis-appropriation of funds to the extent of
Rs.2,60,000/- is of the year 2013, report of said fact is

belatedly lodged in the year 2016. Learned counsel for the applicant has contended that in fact applicant, who is Gram Sewak, working with Grampanchayat Rajaram, Khandla, is already enquired with departmentally for the said charge and the enquiry report of the enquiry conducted by the Assistant Commissioner (Enquiry and Inspection), Nagpur Division, Nagpur has given a specific finding that the applicant in his capacity as a Secretary is not directly involved with the alleged misappropriation. However, the applicant is only found to have not obeyed the directions of the superior officers while indulging into financial transaction. To substantiate above submission, learned counsel for the applicant has placed on record copy of finding of enquiry officer and report addressed by the said officer to the Chief Executive Officer, Zilla Parishad, Gadchiroli. The same is taken on record.

It is, therefore, contended that as the applicant's custody is no more required though he is arrested on 18.10.2016 and the charge-sheet is yet to be filed, the application be allowed.

Learned Additional Public Prosecutor Shri C.A. Lokhande opposes the application on the lines of reply filed on record, and on instructions he makes a statement that the charge-sheet would be filed within a period of two weeks.

Perused the case diary where from it is noted that based on report lodged by one Ajay Ramayya Kankadlawar, Chairman of Agriculture Animal Husbandry and Dairy of Zilla Parishad, Gadchiroli offence came to be registered as aforesaid and the applicant is arrested on 18.10.2016 for alleged mis-appropriation of Rs.2,60,000/-/-. From the case of the prosecution it is found that the alleged mis-conduct of the applicant is a procedural lapse on his part which is also a finding of the enquiry officer who on holding departmental enquiry in his report has specifically stated that involvement of the applicant is only by way of procedural lapse and there is no evidence to establish direct mis-appropriation of funds by the applicant. Admittedly, based on such enquiry report, the applicant's services are already terminated though it is stated his appeal is pending before the Divisional Commissioner.

Having considered the facts as aforesaid, it is found that the case of the prosecution is based on the documents. The applicant is behind bar since more than two months.

In that view of the matter, there is no purpose in further keeping the applicant behind bar pending investigation. Though from the contents of paragraph No.6 of the affidavit-in-reply prosecution

appears to have put forth the case of applicant indulging into putting forged signature of Ex-Sarpanch and drawing amount as aforesaid, this also is an aspect which is on document of which investigation is in progress. Similarly, though it also appears to be the case of the prosecution that on withdrawing amount of Rs.2,60,000/- the same is shown as credited in the cash book while amount of Rs.1,00,000/- out of the same was shown as debited by way of payment to Paryavaran Santulit Samruddha Gram Yojna, Grampanchayat Rajaram Khandla, no such entries are found in the book of accounts of said Grampanchayat. This also is an aspect which can be established by the prosecution based on documents.

Considering the peculiar facts involved in the present crime as aforesaid and in view of the findings of the enquiry officer that the applicant is not found directly indulged in mis-appropriation of Rs.2,00,000/-, the application will have to be allowed as the entire investigation is based on documents. In that view of the matter, application is allowed by imposing suitable conditions, as per following order :

ORDER

1. The applicant shall be released on bail on his executing personal bond of Rs.50,000/-

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with one surety in the like amount.

2. While on bail, the applicant shall not leave jurisdiction of Gadchiroli district without permission of the investigating officer and on filing of charge-sheet without permission of the Trial Court.

3. The applicant while on bail, shall mark his presence with Police Station Rajaram Khandla, Tahsil Aheri, District Gadchiroli on every alternate day till filing of the charge-sheet and, thereafter, once in three months on first day of each such month, pending trial.

4. The applicant shall submit proof of his residence with the investigating officer and shall update the same in the event of change in future.

The criminal application is disposed of accordingly.

JUDGE

!! BRW !!

.....6/-

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede. Uploaded on :- 6/1/2017
(Personal Assistant)

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