

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

ANTICIPATORY BAIL APPLICATION NO. 1939 OF 2016

Nitin Sahebrao Palwe ... Applicant

V/s.

The State of Maharashtra ... Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 2175 OF 2016**

Sanjay Dattaram Dalal ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Nitin Pradhan a/w S.D. Khot with Yogesh Jaybhav for the Applicant in ABA/1939/2016.

Mr. Saurabh Bhutala for the Applicant in ABA/2175/2016.

Mrs. J.S. Lohokare, APP for the Respondent/State.

Mr. G.N. Dhodi attached to Vikramgad Police Station.

**CORAM : A.S.GADKARI, J.
DATE : 18th JANUARY, 2018**

P.C.:

1. By reasoned Orders dated 01.11.2016 in ABA No. 1939 of 2016 and dated 21.12.2016 in ABA No. 2175 of 2016, the Applicants were granted interim relief.
2. The Applicant in ABA No. 1939 of 2016 is an Executive Engineer employed with Public Works Department, Government of Maharashtra. The

Applicant in ABA No. 2175 of 2016 is alleged to be an agent in the transaction in question. It is the prosecution case in brief that the Government of India provided finance to the State of Maharashtra who in turn under the supervision of Public Works Department, Government of Maharashtra was to execute the work of construction of a Community Hall at village Khuded, Ghodichapada, Taluka Jawar, District Palghar under the scheme floated by Adivasi Development Project Authority, Jawar, District Palghar. That, an amount of approximately Rs.10 lakhs was sanctioned for the said project. That, the first informant who is Project Officer attached with the said Adivasi Development Project Authority visited the site of construction of the community hall and found that said Community Hall was not in existence, however, the grant allotted for the said project has been utilised and/or used by the concerned. The first information report, therefore is lodged on 04.10.2016. There are in all five accused persons named in first information report.

3. Perused the record.

The record indicates that before lodgment of the present crime on 04.10.2016, the Applicant Nitin Palwe had filed a complaint dated 26.09.2016 with Vikarmgad Police Station, District Palghar thereby alleging that by forging the signatures of the Applicant and by exhibiting bogus outward numbers and dates somebody has submitted documents with Adivasi Development

Project Authority, Jawar claiming first 50% of the amount allotted for the said construction. The Applicant has categorically contended in the said complaint that the Sub-Ordinate Officers prepared the relevant documents/reports/vouchers and by taking undue advantage of the busyness of the Applicant took his signatures on the same and on 15.03.2016 a cheque of Rs.8,60,612/- has been issued in favour of the Contractor-Accused No.5

4. The record further indicates that the Executive Engineer (Construction), Zilha Parishad, Palghar subsequently on 01.10.2016 inspected the site along with other Government Officers and found that the said Community Hall has been constructed at village Khuded, Ghodichapada, Taluka Vikramgad and the quality of the construction is good.

After perusing the record, prima facie it appears that there is substance in the contentions of the Applicant Nitin Palwe as has been mentioned in his complaint dated 26.09.2016 lodged with Vikramgad Police Station, District Palghar.

5. As far as, Applicant Sanjay Dalal is concerned, it is alleged that he acted as an agent of accused Siddhiqui Mohd. Faisal Mohd. Jamaluddin(Accused No.5) i.e. the Contractor for submitting bills and release of amount in favour of the said Contractor. Prima facie, this Court is having doubt about the allegations leveled against the Applicant Sanjay Dalal as the

Government Authority had initially issued public notice thereby calling tenders from the Contractors and after the Government Authority found that the concerned Contractor i.e. Accused No.5 is qualified to construct the said community hall, the said tender has been allotted to him. As per the normal rules of business, the concerned authority after due verification and by following due process has to allot the contract. It therefore, prima facie appears that, the said Applicant Sanjay Dalal has no role to play in the present crime. Therefore, I find substance in the contentions of the learned Counsel for the Applicant that the Applicant Sanjay Dalal has been unnecessarily implicated in the present crime.

6. As noted earlier, the record further indicates that though belatedly the said Community Hall has been constructed by Accused No.5 Siddhiqui Mohd. Faisal Mohd. Jamaluddin and the report pertaining to its completion of work and quality of construction has been submitted by the Executive Engineer, Zilha Parishad, Palghar.
7. In view of the above and after taking into consideration the record of investigation, this Court is of the view that the custodial interrogation of the Applicants for further investigation of the present crime is not necessary.
8. The interim relief granted by orders dated 01.11.2016 and 21.12.2016 respectively is confirmed. However, the condition to attend the

Investigating Officer is hereby waived.

9. Applications are allowed in the aforesaid terms.

(A.S.GADKARI, J.)