

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

905 ANTICIPATORY BAIL APPLICATION NO.877 OF 2020

MUKUNDRAO RENUKADAS DESHMUKH

VERSUS

STATE OF MAHARASHTRA

...

Mr. Vivek Bhavthankar, Advocate for applicant

Mr. V.S. Badakh, APP for respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 15th DECEMBER, 2020

ORDER :

1 Present application has been filed by the applicant-accused No.2, under Section 438 of the Code of Criminal Procedure, 1973, as he is apprehending his arrest in connection with Crime No.90/2019, dated 02.07.2019 registered with Kuttur Police Station, Dist. Nanded, for the offence punishable under Section 420, 406 read with Section 34 of the Indian Penal Code.

2 Heard learned Advocate Mr. Vivek Bhavthankar for the applicant and learned APP Mr. V.S. Badakh for respondent. In order to cut short, it can be said that they had argued in support of their respective contentions.

3 Perusal of the First Information Report would show, that it has been lodged by a Block Development Officer, alleging therein that co-accused Balbhim Chandrakant Waghmare applied for allotment of a house under “Indira Awas Yojana” at village Aurala, Tq. Naigaon. His application was sanctioned. The necessary funds came to be released. A complaint was received, alleging that co-accused Balbhim, Gramsevak S.V. Kaushalya, Senior Sectional Engineer Mr. B.R. Rodge, present applicant and Technical Officer Mr. S.M. Shinde have prepared false and fabricated documents and misappropriated a sum of Rs.95,000/-. The allegations are that the co-accused Balbhim, without constructing house under “Indira Awas Yojana”, received the funds from the Government and misappropriated the same by joining hands with the aforesaid public servants and present applicant. The co-accused submitted a photograph of someone else’s house, indicating the same to have been constructed under the Scheme.

4 On inquiry, the complaint was found to be true. The Block Development Officer, apportioned the financial liability amongst the applicant and the aforesaid persons. It appears that the money, which those persons were liable to pay, has been recovered. The applicant has also deposited with the office of Block Development Officer a sum of Rs.23,750/- on 24.09.2020 towards the financial liability. Copy of receipt of amount

deposited by applicant is on record at Exh.'F'. It is to be noted that co-accused Balaji Raghunath Rodge, Sectional Engineer has been released on anticipatory bail by this Court vide order dated 09.09.2019 passed in Anticipatory Bail Application No.964 of 2019. So also co-accused Balbhim Chandrakant Waghmare has also been released on anticipatory bail by this Court vide order dated 25.11.2019 in Anticipatory Bail Application No.1282 of 2019. When the money, which the accused persons were liable to pay, has been recovered, physical custody of the applicant is not required for the purpose of investigation. Though there might be some role played by applicant; yet that cannot be the only ground to curtail his liberty. Therefore, the application deserves to be allowed. Hence, following order.

ORDER

1 The application is hereby allowed.

2 The order passed by learned Additional Sessions Judge, Biloli in Bail Petition No.140/2019 dated 09.07.2019, is hereby set aside. Said application stands allowed.

3 The ad-interim protection, granted by this Court earlier to applicant vide order dated 05.11.2020, is hereby confirmed and made absolute. In other words, if the applicant is not formally arrested, in the

event of arrest of the applicant-Mukundrao Renukadash Deshmukh, in connection with Crime No.90/2019 registered with Kuttur Police Station, Dist. Nanded for the offence punishable under Section 420, 406 read with Section 34 of the Indian Penal Code, he be released on P.R. of Rs.30,000/- (Rupees Thirty Thousand only) with two sureties of Rs.15,000/- (Rupees Fifteen Thousand only) each.

4 The applicant shall not tamper with the evidence of prosecution, in any manner nor he shall indulge in any criminal activity.

5 He shall attend the concerned Police Station as and when called by the Investigating Officer and shall cooperate the investigation.

(Smt. Vibha Kankanwadi, J.)

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