

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1086 OF 2020

Nitin Bhaskarrao Shejwal = APPLICANT

VERSUS

The State of Maharashtra = RESPONDENT/S

Mr.SJ Salunke, Advocate for Applicant/s

Mr.VM Kagne, APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI, J.

DATE : 7th December, 2020.

PER COURT:-

1. Present application has been filed by the original accused for getting anticipatory bail under Section 438 of Code of Criminal Procedure as he is apprehending his arrest in connection with Cr. No.16 of 2019 dt. 19-01-2019 registered with Ghansawangi Police Station, Dist. Jalna for the offence punishable under Section 409, 420 of Indian Penal Code.

2. Heard learned Advocate Shri. S.J. Salunkhe for the applicant and learned APP Shri. V. M.Kagne for the State.

3. It has been vehemently submitted on behalf of applicant that the First Information Report lodged against the applicant is an afterthought act. Applicant is the Gramsevak of village Shripat Dhamangaon. Applicant has not

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misappropriated any Government amount. In fact the said amount was transferred to Amol Agencies, Ambad who had carried out the work of installation of LED street lights in the village. Those amounts were given through cheques No.2242 and 2243 drawn on Maharashtra Gramin Bank, Kumbhar Pimpalgaon Branch; where the village panchayat had its Bank Account. Apart from present applicant, the said cheque was signed by the Sarpanch of the village. Amol Agencies has received the amount on 21-07-2017 and 18-10-2017 respectively.

. Learned Advocate for the applicant has pointed out the photo copy of the cheques and the statement of account of said Amol Agencies to support his submission that said Agency has received the amount, thereby he tried to demonstrate that applicant has not received the amount and, therefore, there is no question of misappropriation. He prayed for anticipatory bail.

4. Per contra, learned APP strongly opposed the application and submitted that the investigation is still pending. After the fact of withdrawal of the amount was noticed by the superior of the applicant, he was contacted for the explanation. One month time was granted to him, but he did not give any explanation either orally or in writing. Now, with some ulterior motive he is giving explanation but it will have to be cross-checked. His physical custody is required.

5. It is to be noted that the FIR has been

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filed by one Narendra Pandurang Nagalwad, Development Officer of Panchayat Samiti. He has stated that present applicant had not handed over full charge after he was transferred from Shripat Dhamangaon. The successor of the applicant had informed the office about the same. It was also then pointed out that two amounts have been withdrawn from the bank account of Grampanchayat. One is to the tune of Rs.1,40,000/- and another was Rs.1,05,000/-, which was under the Scheme of Balanced Environment Scheme. Present applicant was called upon to give explanation, but he did not give within one month also. Therefore, informant says that the said amount has been misappropriated.

6. Interesting point to be noted is that the present applicant is coming before this Court that those amounts have been given to one Amol Agencies for the work done by it. Some documents have also been filed. But if we see the application filed by the present applicant before learned Additional Sessions Judge for anticipatory bail, then it can be seen that he had contended that the said amount was given to one Anant Departmental. He has contended that the said amount was given to that agency for the supply of articles under the same scheme and for the same year i.e. 2017-2018. He has further stated that bill was raised by that agency and amount is paid by cheque. Thus, the applicant has raised contrary stand. He wants the Courts to believe those contrary stands. If the applicant is claiming anticipatory bail by misleading the Court,

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then he deserves no sympathy. Grant of anticipatory bail is in the discretion of the Court and the said power has to be exercised sparingly and not as routine. Therefore, on the said count, he is not entitled to get bail under Section 438 of Code of Criminal Procedure. His application deserves to be rejected. Accordingly, it is rejected.

(SMT. VIBHA KANKANWADI,J.)

BDV