

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO 182 OF 2021

Dilip s/o Dashrath Taral
Age 48 years, Occ. Service.
R/o. Itkheda, Aurangabad.

... APPLICANT

The State of Maharashtra.

... RESPONDENT.

Mr. Rajendra Deshmukh, Senior Counsel with Advocate Ashwini
Sahastrabuddhe and Kunal Kale, instructed by Mr. R.B. Ade, Advocate for
applicant.
Mr. N.T. Bhagat, APP for respondent.

CORAM : V.G. BISHT, J.

ORDER RESERVED ON : 27th August.2021.
ORDER PRONOUNCED ON : 7th September, 2021.

PER COURT:

1] This is an application under Section 438 of Cr.P.C. preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No. 0012 of 2021, registered with Police Station, Paradh, District Jalna for the offences punishable under Sections 420, 464, 468, 471 r/w. 34 of IPC.

2] The gist of the complaint is that, one Sunil Rambhau Gaikwad had filed a complaint before the Commissioner for Agriculture,

Pune and on the basis of the said complaint, the Commissioner for Agriculture constituted an Enquiry Committee headed by the Deputy Director of Agriculture, Jalna Shri Mainkar and one Shri Magar. Both of them submitted their report and in the report, it is alleged that during the year 2019, in Bhokardan Taluka under the scheme of Pradhan Mantri Sukshma Sinchan Yojna (Prime Minister Micro Irrigation Scheme) they found that the accused Sandip Bhagwan Rajput and Ujjwal Bhagwan Rajput, Proprietors of Babaji Agro Pimpalgaon Renukai, Taluka Bhokardan and the applicant who was then working as Agricultural Supervisor, Hasnabad, Taluka Bhokardan, in furtherance of their common intention, forged the documents like 7 x12 extracts and committed various irregularities in supply of drip and sprinkler irrigation set material to the agriculturists and thereby misappropriated Government grants to the tune of Rs. 1,12,57,908/-. Accordingly, FIR came to be lodged against them.

3] Mr. Deshmukh, learned Senior Counsel for the applicant, submits that the applicant is under suspension since 24.11.2020 for other reasons before lodging of the FIR in question and still continues to be under suspension. The other two accused have already been granted regular bail by the trial court. The learned counsel then invited my attention to the salient features of the Prime Minister Micro Irrigation Scheme and would submit that it was the Taluka Agriculture Officer, who was heading and responsible to execute the said scheme, whereas, the applicant was a subordinate officer. The learned counsel further invited my attention to the duties of the applicant and would submit that in the light of the said duties, the applicant could not have been held responsible for anything.

4] The learned counsel also took me through the transfer order dated 31.5.2018, whereby the applicant was transferred to Hasnabad Circle from Bhokardan, whereas, the alleged irregularities are in respect of the other talukas. The learned counsel also referred to the additional affidavit on record filed by the applicant.

5] The learned counsel lastly submitted that the prosecution case is based on documentary evidence and all the documents are verified by the concerned Agricultural and Revenue officers and those documents are in the custody of police authorities and, therefore, physical custody of the applicant is not necessary.

6] Mr. Bhagat, learned APP, on the other hand, vehemently opposed the submissions and contended that the Committee Report has specifically pointed out various irregularities committed by the present applicant and other accused. It is a big scam in which the Agricultural and Revenue Officers including the applicant are seriously involved and the amount involved is in crores. Thorough investigation is required and for that purpose, the custody of the applicant is necessary.

7] First of all, it is necessary to see the scope of the Prime Minister Micro Irrigation Scheme and at para.4 of the application, the applicant has elaborately given the details thereof. It appears that primary responsibility was on the Taluka Agricultural Officer to verify all the documents submitted by the agriculturists and it is only after necessary verification of documents, pre-sanction letter was to be provided to the agriculturists by the Taluka Agricultural Officer. The duty of the present applicant was that, after receipt of the file for spot verification, he was expected to verify the spot and submit his report to

the Taluka Agricultural Officer and after having submitted report in that respect, it was the Taluka Agricultural Officer, who was supposed to sanction the file and submit it to the District Superintendent Agricultural Officer. Thus, apparently, it was the Taluka Agricultural Officer, who was at the helm of affairs and the applicant was a subordinate officer to perform a particular function.

8] It is also pertinent to note here that the entire responsibility of implementation of the scheme was upon the Taluka Agricultural Officer and without his personal verification of the documents pre-sanction letters could not have been issued in favour of the agriculturists. All that was required to be done by the applicant was to carry out the spot verification and nothing else. So also, all the documents were expected to be submitted on-line, thereby, doing away with any kind of malpractice(s). This is one aspect of the matter.

9] I have gone through the investigation papers submitted before me for perusal by the learned APP. There is a Preliminary Report of the Committee so appointed, in respect of re-examination of Thibak Sinchan Sanch, (sprinkler irrigation sets) dated 14.12.2020. There is a general and vague observation that the applicant had carried out spot verification negligently and there was tinkering with the photographs of the spot verification. Then, there is a letter addressed by the District Superintendent Agricultural Officer, Jalna, to the Commissioner for Agriculture, Pune. In the said letter-cum-report, it is observed by the District Superintendent Agricultural Officer that while examining the proposal of Sprinkler Irrigation Sets, including 7 x 12 extracts, it was found that the 7 x 12 extracts were fabricated and having forged seal and signature of the Talathi, Taluka Hisoda. Similarly, despite the fact that

there were agricultural lands in the name of 60 agriculturists of Mauje Leha, Hisoda and Kotha Koli, the applicant prepared false spot verification report and then, misappropriated government grants. Interestingly, no such specific figure is quoted by the concerned officer. He further observes that the applicant gave a false report about installation of sprinkler irrigation sets in the land of 28 agriculturists of Mauje Loha, Kotha Koli, although they were having a less area of land. The most important observation at clause (v) is that although the applicant was not posted in the said area, he prepared the spot verification report and signed it.

10] This is quite intriguing, inasmuch as, first of all, he was not posted there; then how and under what circumstances, he was allowed to visit those talukas and prepare spot verification reports. Assuming for the sake of argument that somehow he managed to approach those talukas and prepared spot verification report, still, when the higher authorities were knowing that he was not posted there, then they should not have accepted the spot verification reports of the applicant. This creates a very serious doubt as to the approach of the Committee, as also, the role of higher-ups in the whole alleged episode.

11] In this regard, it is pertinent to refer to the transfer order dated 31.5.2018, which clearly shows that at the relevant time the applicant was working as an Agricultural Supervisor in Hasnabad circle, Taluka Bhokardan, whereas, the alleged villages i.e. Hisoda (Bk), Kotha Koli, Leha, Paradh (Bk) Shelud etc, are in the Dhavda Circle of Bhokardan Taluka. There was no reason for the applicant to go through and verify the spot in those villages, as is alleged.

12] I have already discussed the entire guidelines issued under the scheme and the concerned officer, who was responsible for implementation of the said scheme. Having regard to the above discussion and the fact that the entire case is based on documentary evidence and all the documents are admittedly in possession of Revenue/ Police authorities, in my considered opinion, the physical custody of the applicant is not at all necessary.

13] In the above premise, I am inclined to allow the application. Hence, the following order.

: O R D E R :

[I] In the event of arrest of the applicant in connection with Crime No. 0012 of 2021, registered with Police Station, Paradh, District Jalna for the offences punishable under Sections 420, 464, 468, 471 r/w. 34 of IPC, the applicant be enlarged on bail on his furnishing PR Bond in the sum of Rs. 25,000/-, with one or two sureties in the like amount.

[II] The applicant shall attend the concerned police station as and when called and shall cooperate with the police in the investigation.

[III] He shall not tamper with the evidence.

14] The application stands disposed of in aforesaid terms.

**[VG. BISHT]
JUDGE.**

grt/-