

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

21 ANTICIPATORY BAIL APPLICATION NO.354 OF 2020

Aarun @ Arun s/o laxman Mundhe,
Age 30 years, Occ. Service,
R/o. Aarbujwadi, Tq. Gangakhed,
Dist. Parbhani.

VERSUS

State of Maharashtra,
Through Nagar Taluka Police Station,
Ahmednagar, Taluka and District
Ahmednagar.

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Advocate for Applicant : Mr. Sudhir K. Chavan
APP for Respondent-State : Mrs. R.P. Gaur

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CORAM : MANGESH S. PATIL, J.
DATED : 22 FEBRUARY 2021

PER COURT :

This is an application under Section 438 of the Criminal Procedure Code, as the applicant is apprehending his arrest in connection with Crime No.I-0024/2020 registered with Pimpaldari Police Station, Tq. Gangakhed Dist. Parbhani for the offences punishable under Section 420, 417, 465, 468, 470 and 471 read with Section 34 of the Indian Penal Code.

2. The First Information Report has been lodged by a Block Development Officer, Panchayat Samiti, Gangakhed. He alleges that pursuant to the directions of the Chief Executive Officer, a committee

was constituted to visit various spots and to prepare report in respect of the development activities undertaken by the Panchayat Samiti. Pursuant to such inquiry, explanation was called from applicant and two other officers of the Panchayat Samiti. After considering their report, it transpired that it was the responsibility of the accused persons, who were the technical officers and the applicant, who was Gram Rojgar Sevak to supervise and carry out measurement in respect of the Wells to be sunk under MANREGA Scheme. It transpired that they all hand in gloves had manipulated record and siphoned of public money. It was found that though the actual work was not undertaken completely or to some extent, the entire grant was allowed to be withdrawn. The role attributed to the applicant is that he was supposed to provide labour and maintain their muster while undertaking the work under MANREGA Scheme.

3. The learned Advocate for the applicant would submit that the applicant is innocent and he is being falsely implicated. He adverts my attention to statements of various beneficiaries, who pointed out a finger to one Swapnil Mundhe, who happens to be son of Sarpanch of the village, who had approached them and promised to sink Well. He also paid them some money but did not complete the work and assure to pay the balance later on. They have all stated that it is Swapnil

Mundhe, who has given them promise and being the son of the *Sarpanch* has played active role. The allegations conspicuously omit any role attributable to the applicant.

4. The learned Advocate for the applicant also produces copies of the muster maintained in his office and submits that his signature is not appearing anywhere on this muster roll and it bears the signatures of the other co-accused, who are technical officers. He, therefore, submits that there is absolutely no material to *prima facie* showing involvement of the applicant in commission of the crime. He is a Government servant and ready to co-operate the Investigating Officer. His custodial interrogation is not necessary. The application be allowed.

5. Learned APP opposes the application. She submits that the offence is serious. All the accused are public servants, who have indulged in misappropriation and criminal breach of trust. They have also resorted to fabrication. The public money meant for the poor beneficiaries has been siphoned off in a systematic manner. Considering the *modus operandi* being attributed to the accused persons, custodial interrogation of the applicant is necessary and discretion may not be exercised in his favour.

6. The learned APP further objects to the conduct of the applicant in producing on record photo copies of the muster roll for unskilled labour maintained under MANREGA Scheme. She submits that there is every room to believe that the record must have been produced by the applicant without the permission of his superior officers. She would further submit that even if this is to be taken into consideration, it shows that the applicant has conveniently skipped his duty to sign on the muster roll. Therefore, no discretion be exercised in his favour.

7. Learned APP, lastly submits that since the investigation is at a nascent stage, the investigating officer needs to be extended time to complete the investigation by resorting custodial interrogation and if necessary even Swapnil Mundhe could be an accused.

8. I have carefully gone through the papers of the investigation. It is not that the FIR has been lodged abruptly. It is a matter of record that inquiry was held. Even an opportunity of being heard was extended to the applicant. The committee had visited the spots and inspected the record and *prima facie* has come to an objective satisfaction about their having been rampant misappropriation and forgery. Suffice for the purpose to note that

committee has found that though the actual work was not completed or was completed only partly, the entire amount was allowed to be withdrawn. The statements of the beneficiaries corroborate this and show that they were not paid the entire amount. Considering the fact that the technical officers, who were responsible for carrying out actual measurement of the work, *prima facie*, falsely showing that the work was done or completed, allowed the Government grants to be withdrawn.

9. Even the applicant being a person responsible for maintaining the muster of the labourers working under MANREGA scheme has actively indulged in siphoning of the money.

10. Apart from the conduct of the applicant in producing on record photo copies of the muster roll to show that it does not bear his signature, for which the custody of which he *prima facie* does not account for, also speaks in volumes that absence of his signature on the muster roll is now being taken as a convenient plea, without taking upon himself the responsibility as to what was he doing when this muster was being prepared.

11. Considering the *modus operandi* being attributed to the accused persons, it is a fit case where the Investigating Officer will

have to resort to custodial interrogation of the applicant.

12. Following the principles laid down in the case of **Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others (2011)1 SCC 694**, **Sushila Aggrawal Vs. State (Nct of Delhi) and another (2020)5 SCC 1** and **Nimmagadda Prasad Vs. Central Bureau of Investigation (2013)7 SCC 466**, the applicant is not entitled to anticipatory bail.

13. The Application is rejected.

[MANGESH S. PATIL, J.]

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