

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.504 OF 2021

RUKHMIN D/O. DATTU KHODEWAD
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Ms. Shubhangi D. More
APP for Respondent-State : Mr. S. D. Ghayal
...

CORAM : SANDEEP K. SHINDE, J.

DATE : 06.08.2021

PER COURT :-

1. In departmental enquiry initiated against the applicant by the Chief Executive Officer, Nanded, suspended the applicant from service as Gramsevika, on 4th April, 2019. Later, since the charge sheet was not filed within permissible period, her suspension was revoked in the month of January-2020.

2. Amongst other, one of the charges is that the applicant and one Mira Gopinathrao Sontakke, (*Sarpanch*), misappropriated the property of Grampanchayat i.e. worth of Rs.13,37,884/-. Departmental enquiry is in progress. Pending enquiry, complainant- Prabhakar Tulshiram Lakhpatrewar

sought the direction under Section 156(3) of the Code of Criminal Procedure, 1973 to register the crime against the applicant and co-accused Mira Gopinathrao Sontakke (Sarpanch). Where-after, in pursuant to the directions, Crime No. 19 of 2021 was registered on 18th March, 2021 for the offences punishable under Sections 406, 409, 420, 465, 467, 471, 474, 166(1) and 120-B of the Indian Penal Code (IPC) against the applicant and one Sarpanch- Mirabai Gopinathrao Sontakke. It appears that the Block Development Officer, Panchayat Samiti, Dharmabad, District Nanded, called upon applicant and co-accused to deposit misappropriated amount equally.

3. Today, the applicant has filed undertaking dated 06-08-2021 , wherein, he has voluntarily agreed to deposit Rs.6,68,942/- with Grampanchayat Karkheli, Taluka Dharmabad, District Nanded. The undertaking is taken on record and marked as Exhibit "X-1", for identification. Clause No. (2) of the said undertaking reads as under -

"2) I say that, I am voluntarily ready to deposit the amount of Rs.6,68,942/- (Rupees Six Lacs Sixty Eight Thousand Nine Hundred Forty Two Only) out of total amount of Rs.13,37,884/- to the

Grampanchayat Karkheli, Tq. Dharmabad, Dist. Nanded, in which the applicant will deposit Rs.2,00,000/- within a period of one week i.e. till 13.08.2021 and remaining amount of Rs.4,68,942/- will deposit within a period of two months from today i.e. on 06-10-2021, subject to outcome of the criminal proceeding initiated against me vide Crime No. 0090/2021 registered on 18.03.2021 with Dharmabad Police Station, Dist. Nanded.”

4. I have perused article of charges framed in the departmental enquiry initiated against the applicant. Charge No.6-A narrates that the applicant being Gramsevak and Sarpanch withdrew Rs.25,66,846/- from the account of the Grampanchayat; Out of it, amount of Rs.13,37,884/- was withdrawn without seeking administrative and technical permission, and thereby, the applicant and the co-accused breach the service regulation. The charge also indicates that Rs.13,37,884/- were expended on the several account heads. Although, there was no sanction of budgetary provision.

5. In consideration of the nature of charges, in my view, the investigation would largely relates to the examination of documents and books. In view of these facts,

in my view, custodial interrogation of the applicant may not further the prosecution case.

6. In consideration of the facts stated above and in view of undertaking of the applicant, Application is granted on the following terms -

- (i) In the event of arrest of the Applicant- Rukhmin d/o. Dattu Khodewad, in connection with Crime No. 0090 of 2021, registered with Dharmabad Police Station, District Nanded, she shall be released on bail on executing P.R. bond in the sum of Rs.50,000/- (Rupees Fifty Thousands Only) with one or more sureties in the like amount.
- (ii) The Applicant shall join the investigation as and when called.

7. It is made clear that, if the amount is not deposited in terms of undertaking, the State is at liberty to apply for cancellation of the protection granted to the applicant.

8. It is clarified that, the relief granted to the applicant shall not be construed as mitigating circumstance in the departmental enquiry initiated against the applicant.

9. Needless to state that disciplinary authority shall proceed with departmental enquiry independently and without being influence by the order of this Court.
10. Application is allowed and disposed of in the aforesaid terms.
11. List the application on 7th October, 2021, to verify the compliance.

(SANDEEP K. SHINDE)
JUDGE

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