

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 626 OF 2021

1. Sarika Pralahadsing Pardeshi,
2. Bhimabai Pundlik Bhadane
3. Dinesh Babula Mali (Withdrawn).

.. APPLICANTS

Versus

The State of Maharashtra

...RESPONDENT.

...

Mr. D.S. Bagul, Advocate for the applicants
Mr. S.B. Narwade, APP for the respondent.

CORAM : V.G. BISHT, J.

RESERVED ON : 2nd September, 2021.
PRONOUNCED ON : 9th September, 2021.

PER COURT:

1] This is an application under Section 438 of Cr.P.C. preferred by the applicants seeking grant of pre-arrest bail in connection with Crime No.180 of 2021, registered with Police Station, Dhule Taluka, for the offences punishable under Sections 406, 409, 420 r/w. 34 of IPC.

2] It is the case of the prosecution that an amount of Rs. 62,68,000/- was sanctioned for construction of 439 toilets under Swaccha Bharat Abhiyan during the period 2016 to 2018. The applicant

No.1 was the Gram Sevak of Village Panchayat, Vadjai, Balhane and Ajang while the applicant NO.2 was the Sarpanch of Village Panchayat, Ajang. The prosecution alleges that the said amount of Rs. 62,68,000/- was misappropriated without constructing any latrine/toilet and work of construction of 205 toilets of Gram panchayat, Kas Vihir and Anajg remained incomplete. Accordingly, an FIR came to be filed by the Extension Officer, Panchayat Samiti, Dhule.

3] Mr. Bagul, learned counsel for the applicants, submits that the present applicants have been falsely implicated and then invited my attention to the letter written by the Block Development Officer (BDO), Panchayat Samiti, Dhule to the Chief Officer of Zilla Parishad, Dhule, informing him about the completion of 204 toilets, alongwith the list annexed thereto. This letter/report should have been considered before lodging FIR by; the BDO. Moreover, the whole case is based on documentary evidence and there being no necessity of custodial interrogation, the present application deserves to be allowed, argued learned counsel.

4] Mr. Narwade, learned APP, on the other hand, opposed the submissions by contending that there are specific allegations levelled against the applicants in the FIR. Despite constructing toilets, the beneficiaries did not get any amount. The said amount was misappropriated. The learned APP also invited my attention to the investigation papers to substantiate his contentions. The learned APP further submits that the investigation is in progress and the custody of the applicants is necessary in order to recover the amount.

5] On going through the record, it is seen that the work of construction of toilets was given to one Dinesh Babulal Mali. It is also clear from the letter written by the BDO, Panchayat Samiti, Dhule, to the Chief Officer, Zilla Parishad, Dhule, informing him about the construction of 204 toilets out of 205. A list of beneficiaries is also attached thereto. The list also shows completion of work of toilets. I have also gone through the investigation papers, and more particularly, the documents at page Nos. 54/1, 54/2 and 54/3, which were relied on by the learned APP. At page 54/1 is a letter written by the Applicant No.2 to the BDO, informing him that as 79 beneficiaries are to be disbursed an amount @ 12,000/- each, the said amount be released. Accordingly, a resolution to that effect was passed at page 54/2. The document at page 54/3 is disbursement certificate. It is certified by the applicant No.2 that the said amount is disbursed to the beneficiaries by way of cheques and the entry to that effect has been taken in an independent cash book pertaining to Swaccha Bharat Abhiyan and same shall be made available for audit. Thus, there is a list of 79 beneficiaries in all, showing that the work of construction of toilets has been completed except in 5 cases.

6] I have already pointed out the letter dated 14.5.2018, written by the BDO, Panchayat Samiti, Dhule to the Chief Officer, Zilla Parishad, Dhule informing him about the completion of 204 toilets out of 205. Thus, as on 14.5.2018, construction of 204 toilets in all, was completed.

7] From the above, it is more than clear that there is documentary evidence as to the construction of toilets under the Swaccha Bharat Abhiyan. Everything has been reduced into writing and all the necessary documents pertaining to said construction of toilets are

safe in the possession of BDO or for that matter with the Investigating Officer.

8] Having regard to the facts and circumstances of the case, I am of the considered opinion that custodial interrogation of the applicants is not necessary and they can be admitted to pre-arrest bail with certain conditions.

: O R D E R :

[I] Application is allowed as far as applicant Nos. 1 and 2 are concerned. So far as applicant No.3 is concerned, the application has already been disposed of as withdrawn vide order dated 25.6.2021.

[II] The interim relief granted to them by this court on 25.6.2021 with certain conditions stands confirmed and is made absolute.

[III] Criminal Application No. 1297 of 2021 for permission to assist the APP, stands allowed and disposed of.

9] The application stands disposed of in aforesaid terms.

**[V.G. BISHT]
JUDGE.**

grt/-