

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

ANTICIPATORY BAIL APPLICATION NO.748 OF 2020

**DNYANDEO S/O. SAMBHAJI SARWADE
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicants : Mr. Shinde Ram S.

APP for Respondent/State: Mr. V.S. Badakh

Advocate for Assist to APP : Mr. K.R. Doke

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CORAM : MANGESH S. PATIL, J.

DATE : 28.01.2021

PER COURT :

The applicant is seeking bail in the event of his arrest in connection with Crime No.92/2020 registered with Bhoom Police Station, Taluka Bhoom, District Osmanabad for the offences punishable under Section 420, 467, 468 and 471 of the Indian Penal Code.

2. Briefly stated the allegations are to the effect that the applicant was serving as a Gramsevak of the Village at the relevant time. He presented a cheque along with a NEFT form under his signature and the signature purportedly that of the Sarpanch of the Village and as per the request the Bank transmitted an amount of Rs.2,000/- in the personal account of the Sarpanch. According to the Sarpanch who lodges the FIR, since the phone number of her husband is tagged to the account of the Bank she got the message and on verification she realized that the money was transmitted to her personal account. Alleging that the applicant had done

such mischievous act with an ulterior intention to disqualify her she lodged a report and the offence has been registered.

3. The learned advocate for the applicant would submit that applicant is a government servant. The amount is so meager that he could not have indulged in such criminal act. Nothing was transmitted to his own account. Husband of the informant has been acting as her proxy and indulging in all the activities affecting the functioning of the Grampanchayat. Believing in him he had signed on the cheque. Realizing the error he wrote to the Bank and got the transaction reversed. Going by the allegations his custodial interrogation is not necessary as laid down in the case of **Sushila Aggarwal Vs. State (Nct of Delhi) and Anr.,; (2020) 5 SCC page No.1**. He is ready to co-operate the Investigating Officer and ad-interim protection granted to him may be confirmed. The learned advocate further points out that there is 12 days delay in lodging the FIR and there are no antecedents.

4. The learned prosecutor opposes the Application. He submits that it is under applicant's signature that the money was transmitted. His conduct of approaching the Bank and submitting an application admitting the mistake is sufficient to reveal his complicity in the crime. His custodial interrogation is necessary going by the modus resorted to by him and the Application may be rejected.

5. I have carefully gone through the judgment of the apex Court in the case of Sushila Aggarwal (supra) and the papers of the investigation. Though it is now being asserted by the applicant that it is relying upon the

husband of the informant that he had put his signature on the cheque, his such version and stand being taken now is completely missing in the Application submitted by him to the Bank requesting for reversal of the transaction.

6. Apparently, he himself had presented the cheque along with NEFT form requesting the Bank for transmitting the money. There are statements of the bank officials to this effect. If such is the state of affairs, when there is also a doubt being expressed by the bank officials regarding genuineness of signature of the informant on the cheque, custodial interrogation of the applicant seems highly imperative.

7. Considering the nature of the crime, when the investigation is still going on the discretion cannot be exercised in granting anticipatory bail.

8. The Application is rejected.

9. The learned advocate for the applicant at this juncture submits that the applicant has already been protected by way of ad-interim relief by the order dated 04.09.2020 and the same may be continued for couple of weeks to enable the applicant to approach the Supreme Court.

10. In view of the above state of affairs, the ad-interim protection to continue for a period of two weeks from today.

(MANGESH S. PATIL, J.)