

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

902 ANTICIPATORY BAIL APPLICATION NO.1023 OF 2021  
BHARAT MARUTRAO GHUGE

**VERSUS**

THE STATE OF MAHARASHTRA

**WITH**

903 ANTICIPATORY BAIL APPLICATION NO. 1094 OF 2021  
SHIVAJI SOPANRAO BIRAJDAR

**VERSUS**

THE STATE OF MAHARASHTRA

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Advocate for Applicants : Thombre S. S.  
APP for Respondents State: Mr. V. S. Badakh

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CORAM : PRAKASH D. NAIK, J.

DATE : 21st OCTOBER, 2021

**ORDER:**

1] The applicants are apprehending arrest in C.R. No.0024/2020 registered with Pimpaldari Police Station, Tq. Gangakhed District Parbhani for the offences punishable under Sections 420, 465, 468, 470 and 471 of Indian Penal Code (for short, 'IPC').

2] The prosecution case is that the complainant is the Block Development Officer at Panchayat Samiti, Gangakhed. The Panchayat Samiti had undertaken various development work in accordance with directions of the Government. Complaint was forwarded by the MLA on 10<sup>th</sup> January, 2018 and on that basis of said complaint, inquiry committee was appointed on 13.02.2019. It was headed by Shivaji Kamble, Block Development Officer. Report was submitted by the

inquiry committee on 14.05.2019. The show-cause notice to the Gramsevak A.B.Patange, D.P.Patil, Pushpadevi Mundhe and Arun Mundhe on 27<sup>th</sup> August, 2019. They have submitted explanation. The complainant was instructed to give his opinion on the enquiry report. Opinion was given on 7<sup>th</sup> February, 2020. The complainant was instructed to initiate action against S.S.Birajdar, Guardian Technical Officer, Rupesh Dagdiya, Panel Technical Officer, Bharat Ghuge, Panel Technical Officer, Syed.Parvez Rahim Data Officer and Arun Mundhe, Gram Rojgar Sevak. It was alleged that as per National Rural Employment Guarantee Scheme directions were given for construction of 62 Wells. Into 2017 – 2017, without completing the work, the accused acted in connivance with each other and misappropriated amount of Rs.5,15,791/-. First Information Report (for short, 'FIR') was registered on 9th February, 2020.

3] The applicants preferred application for anticipatory bail before Sessions Court, which has been rejected by order dated 12<sup>th</sup> March, 2021.

4] Learned Advocate for the applicants submitted that Maharashtra Government have introduced G.R. dated 16.12.2020 for appointment of man powers for Mahatma Gandhi Rashtriya Gramin Rojgar Hami Yojna. The applicant Bharat Ghuge was appointed as Panel Technical

Officer. The applicant Bharat Ghuge was in service at Aarbujwadi in 2016 – 2017 and the work completed in his tenure is noted in Measurement Book. Syed.Parvez Rahim, Data Operator had applied to Block Development Officer for deleting his name from the offence and his application has been accepted. The applicant Bharat Ghuge filed similar application, stating that he has been falsely implicated. The applicant was Panel Technical Officer appointed as outsource manpower. During the tenure of applicant Bharat Ghuge, work of Well of Keshav Mundhe, Patloba Mundhe, Janabai Mundhe, Shrinivas Mundhe and Nathrao Mundhe was carried out. Custodial interrogation of the applicants is not necessary.

5] It is submitted that applicant Shivaji Sopanrao Birajdar was working as Panel Technical Officer and posted in the year 2016 – 2017. The duties of Panel Technical Officers were to provide technical assistance to carry out the work, preparation of plans and budget, measurement of work completed, proper care for making entries in the attendant sheet, to ensure with the equipment and transportation rates do not exceed DSR rates and to provide all kinds of assistance to Grampanchayat under that jurisdiction. He has retired from the post two years ago. He is senior citizen. There is no chance of tampering

the evidence. The FIR was lodge don 9<sup>th</sup> February, 2020, after a lapse of 3 years. Custodial interrogation of the applicants is not necessary.

6] Learned APP submitted that it is misappropriation of amount by the accused. The offence was committed in systematic manner. Amount of Rs.5,15,791/- has been misappropriated. The applicants are involved in the offence. Statements of witnesses show their involvement. Statements of labourers were recorded. Actual work was not carried out. Inquiry indicates the involvement of applicants. Specific allegations are levelled against the applicants. False documents were prepared. Custodial interrogation of the applicants is necessary.

7] The applicants were Parent Technical Officer and Panel Technical Officer. According to prosecution, the work of construction of wells for irrigation was sanctioned. It was responsibility of the applicants to see that the work is completed. The applicants were allegedly involved in showing that the work is completed and the amount was sanctioned for the work. The said amount was misappropriated. Show-cause notice issued to the several persons and personal explanation was tendered. The transactions were of 2016 – 2017. The informant had addressed letter to Chief Executive Officer, Z.P. After perusal of the explanation of the concerned persons, to whom show-cause notice was

issued. The co-accused Syed.Parvez Rahim was acting as a Data Operator had preferred application for anticipatory bail before this Court, which has been allowed. In the order dated 27<sup>th</sup> September, 2021, it is observed that except the opinion of the involvement, no material was coming on record to show the involvement of Syed.Parvez Rahim. The FIR has been lodged after three years, work was carried out. The statements of the witnesses were recorded. They do not attribute any specific role to the applicant having committed irregular activities. Statements of labourers were also recorded. They have stated that on the Muster Roll, there name appears but they have not accepted any amount for the work. They did not perform any work towards construction of well. These witnesses have not attributed any role to the applicants. It is inferred that the applicants have misappropriated the amount. The mater relates to documents. Custodial interrogation of the applicants is not necessary. Hence, I pass the following order.

### **ORDER**

- i. Anticipatory Bail Application Nos. 1023/2021 and 1094/2021 are allowed;
- ii. In the event of arrest of the applicants in Crime No.0024/2020 registered with Pimpaldari Police Station, District Parbhani, the applicants be released on bail on

executing PR bond in the sum of Rs. 25,000/- each, with one or more sureties in the like amount;

- iii. The applicants shall attend the investigating officer on 26<sup>th</sup> 27<sup>th</sup> and 28<sup>th</sup> October, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for till filing of the charge sheet.
- 8. Anticipatory Bail Applications stand disposed of accordingly.

( PRAKASH D. NAIK, J. )

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