

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

924 ANTICIPATORY BAIL APPLICATION NO.1218 OF 2021

Milind Satyanarayan Chavan ...Applicant
VERSUS
The State of Maharashtra ...Respondent
...
Mr. Rajendra L.Kute, Advocate for applicant
Mr. D.R.Kale, APP for Respondent-State

...
WITH
ANTICIPATORY BAIL APPLICATION NO.1240 OF 2021

Dinkar Vasantao Lavhare ...Applicant
VERSUS
The State of Maharashtra ...Respondent
...
Mr. Sudarshan J.Salunke, Advocate for applicant
Mr. D.R.Kale, APP for Respondent-State
Mr. S.B.Mundhe, Advocate for complainant (assist to APP)

...
WITH
ANTICIPATORY BAIL APPLICATION NO.1247 OF 2021

Pandit Gyanaba Popale ...Applicant
VERSUS
The State of Maharashtra ...Respondent
...
Mr. Shrinivas A.Ambad, Advocate for applicant
Mr. D.R.Kale, APP for Respondent-State

...
CORAM : PRAKASH D. NAIK, J.
RESERVED ON : 23 NOVEMBER 2021
PRONOUNCED ON : 21st DECEMBER 2021

PER COURT:

1] The applicants in all these applications are apprehending arrest in
Crime No.0119 of 2021 registered with Bardapur Police Station,

Dist.Beed for the offences punishable under Sections 420, 467, 468, 471 and 409 read with 34 of Indian Penal Code (in short, 'IPC'). The First Information Report (for short 'FIR') was registered on 11th September, 2021.

2] The First Information Report (for short, 'FIR') was registered on 16th September 2021 by Ganesh Dattatraya Sarode *Naib Tahsildar*, Ambajogai Dist.Beed. It is alleged that the road repairs from Mauje Pattiwadgaon to Phavdewadi Part 02 admeasuring 1700 to 3400 M was conducted under *Mahatma Gandhi Rojgar Hami Yojna* from 2014 – 2015 vide work order dated 12th January 2015. The work was undertaken by Zilla Parishad, Works Division, Ambajogai, Dist.Beed. Complaint was received alleging corruption, misappropriation and irregularity. Hence, inquiry was conducted by Complaint Redressal Authority and vide order dated 9th July 2021 Shri. M.S. Chavan, Engineer, Z.P. Works Division, Ambajogai, Shri. Dinkar Vasant Lavhare, Assistant Teacher, Nageshwar Vidyalaya Nadzari, Tq.Parali and Shri. Pandit Gyanaba Popale, Postman attached to Post Office Pattiwadgaon, Tq.Ambajogai Dist.Beed were held guilty. Vide order dated 27.08.2021, directions were issued to initiate criminal prosecution against the aforesaid persons. In pursuant to that, the First Information Report was lodged. Shri. M.S.Chavan had forwarded incorrect estimate and without performing work, false bills were prepared and loss of Rs.17,08,468/- was caused to the Government.

Shri. Dinkar Vasant Lavhare is a teacher in aided school. He pretended to be contractor and caused loss to the Government. Shri. Pandit Gyanaba Popale is the postman at Pattiwadgaon Post Office. He acted in connivance with other accused. He opened accounts of dead persons and collected the amount deposited therein and misappropriated the same. All three accused were acted in concert with each other

3] The applicants preferred application for anticipatory bail before the Court of Sessions at Ambajogai. The said applications were rejected by order dated 1st October, 2021.

4] Learned Advocate for applicant M.S.Cavan submitted that the applicant was working as Sectional Engineer in Z.P, Beed at Ambajogai Sub-Division for the period of 2012 – 2016. The road work of 10700 mtrs. was to be done in 2014 – 2015. The applicant was required to prepare the plan estimate of work. The first step was for 00/00 to 1/700, which was done by contractor Vitthal Tarse on the boundary of Beed and Latur District. Estimate plan was prepared by the applicant. The second step was for from 1/700 to 3/400 at village Pattiwadgaon. The estimate plan was approved by Deputy Engineer and Tahsildar, Ambajogai. Reliances placed on the estimate prepared by the applicant and finalized by Dy.Engineer and Tahsildar. The second stage work was carried out for 1.3 k.m. and accordingly, the entry in the measurement book is recorded by applicant. The work was supervised by Dy.Engineer and he has signed

the measurement book. The labourers on the spot are provided through Tahsildar and his sub-ordinate officers are responsible to check that the labour is eligible for work under the scheme. Under the authority of Tahsildar and sub-ordinate officers, the Assistant Project Officer keeps muster on the worksite and appoints the Contractor and labourers during the work under the scheme. The applicant has no role to play. The work from 1.3 k.m. to Chainaj to 2/100 to 3/400 was completed which connected village Pattiwadgaon near *Dalit Vasti*. The sub-ordinate officers of Tahsildar has maintained the record of payment to labourers and the entire payment of the work was through bank account/e transfer to labourers. The record is in the custody of Tahsildar. The life of the of strengthening and metaling on the road was for one year and in case of any defect in the work, it was the responsibility of the contractor. Reliances placed on the Government Resolution dated 14th January 2019. Complaint was filed by Prabhavati Bhimrao Kamble, Narayan Lavhare, Satyapal Rambhau Waghmare and Shri. Tarse alleging that the estimate plan prepared for work of second stage under the scheme for village Pattiwadgaon to Phavdewadi is incorrect and the road of second stage is in Renapur Dist.Latur and therefore, the work shown to be done is incorrect and the amount of Rs.17,08,468/- is misappropriated. The complaint was made on account of village politics. The Inquiry Committee was appointed. The complainant has given affidavit to Collector and Redressal Committee stating that the complaint dated 10th

June 2021 was through misunderstanding on account of village politics. Applicant had appeared before the Committee and submitted his say on 23.09.2021. He has also provided documentary evidence on 19th June 2021. The committee of spot inspection was appointed by the Redressal Committee and spot inspection was undertaken on 26.10.2021 and the report was submitted to the Committee stating that the road is prepared in Latur district. The report dated 09.11.2020 was prepared. The report was objected by applicant on the ground that it does not bear signature of R.B.Kale. The complaint was filed belatedly. Custodial interrogation of the applicant is not necessary.

5] Learned Advocate appearing for applicant Dinkar Vasantrao Lavhare submitted that applicant has been falsely implicated in this case. He is not involved in misappropriation of amount. He is a teacher in school. Custodial interrogation of applicant is not necessary. He is not concerned with the work. The repairs and construction work of road from Mauje Pattiwadgaon to Phavdewadi was done by his brother. Instead of depositing the funds of skilled work in the name of his brother, it was deposited in the account of applicant. He has paid the amount received to his brother, who has performed work. He has not misappropriated amount. The villagers who have signed the complaint, who had forwarded the complaint had withdrawn the same. One of the complainant had submitted that the complaint was not signed by her.

The documents indicate that applicant had no concern with the work. There is a political rivalry between applicant and the member of legislative council. The action was initiated against applicant under political pressure. Custodial interrogation of applicant is not necessary. Applicant had preferred appeal challenging the judgment of Grievance Redressal authority before the State Authority. The said appeal is pending. The appellate authority has summoned the witnesses with documents. Panchanama was carried out by circle officer, which indicates construction of road. The *defacto* complainant was also present, while carrying out panchanama. Learned Advocate relied upon decision of Supreme Court in the case of *Siddharn Mhetre vs. State of Maharashtra (2011) 1 SCC 694 and Manoj Mahavir Khaitan vs. Ram Gopal Poddar 2011 ALL MR (Cri) 326 (SC)*.

6] Learned Advocate for applicant Pandit Popale submitted that applicant has no concern with the road work in any manner. He has been falsely implicated in this case. The complainants have withdrawn their complaints. The applicant had appeared before the Committee and tendered his explanation. Custodial interrogation of applicant is not necessary. He has not committed the offence. He is serving as postman of Pattiwadgaon. He did not open the bogus accounts of labourers. The accounts are opened in the year 2012. The applicant had filed his say before the Redressal Committee and submitted that the withdrawal slips

had been submitted to the Head Post Office. The applicant intends to challenge the order passed by the Redressal Committee. He is not concerned with misappropriation of amount. He has not withdrawn any amount.

7] Learned APP submitted that applicants are involved in commission of crime. The investigation reveals the complicity of applicants. Applicant Milind Chavan has forwarded wrong estimate. He was the Sectional Engineer. Applicant Dinkar Vasantrao Lavhare is a school teacher. He pretended himself to be contractor. He had opened the accounts in the Post Office in the name of various persons with the assistance of accused No.3. The statements of the persons in whose name the amount was withdrawn were recorded. They support the prosecution case. Applicant Pandit Popale is the postmaster. With his assistance, applicant Dinkar Lavhare had withdrawn the amount from the Post Office. Accounts are opened in the name of dead persons. He has connived with the co-accused for withdrawing and misappropriated the amount.

8] I have perused the documents on record. Applicant Milind Satyanarayan Chavan was working as Sectional Engineer at Zilla Parishad, Beed Ambajogai Sub-Division. According to him, the estimate plan was approved by Deputy Engineer and Tahsildar. The work was supervised by Deputy Engineer. He has signed the measurement book. The labourers are provided through Tahsidlar and sub-ordinate officers

are responsible to check the eligibility of labourers. There is no evidence to indicate that applicant has misappropriated the amount. There is no evidence to show his connivance with the other accused.

9] Applicant Dinkar Lavhare has played a vital role. He is a school teacher. He pretended to be contractor. The accounts were opened in the names of various persons as labourers. Amount was received by him, which has been misappropriated by him. Statements of various persons were recorded to show his complicity. All those witnesses have stated that applicant Dinkar Lavhare was instrumental in opening the accounts. Specific role has been attributed to him.

10] Pandit Popale was the postman. It was contended by on his behalf that there is no evidence to show that he has opened the bank accounts. He has not misappropriated any amount. Apparently, there is strong evidence against Dinkar Lavhare. Applicant Pandit Popale is not the person, who had withdrawn the amount.

11] I have perused the statements of various persons, witnesses, such as Narayan Jadhav, Renuka Lavhare, Madhav Lavhare, Prabhavati Kamble, Harischandra Lavhare, Limbabai Lavhare, Indubai Lavhare, Balasaheb Lavhare and Sulochana Lavhare. The witnesses have stated that Dinkar Lavhare had shown himself to be contractor for construction of road. He had shown the witness as labourer. Although, he was not

Gram Rojgar Sevak. He was shown as *Gram Rojgar Sevak*. He has forged his signatures. He has misappropriated the amount. All the other witnesses have given similar statements implicating Dinkar Lavhare. Thus, there is sufficient evidence involving Dinkar Lavhare in the crime. Learned Advocate for applicant relied upon decision of the Apex Court in the case of *Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others (2011)1 SCC 694* and *Manoj Mahavir Prasad Khaitan Vs. Ram Gopal Poddar and Anr., 2011 All MR (Cri) 326 SC*. The decisions relate to the law relating to grant of anticipatory bail. In the facts of the present case, applicant Dinkar Vasantryao Lavhare is not entitled relief under Section 438 of Code of Criminal Procedure. However, the relief can be granted to applicant Milind Satyanarayan Chavan and applicant Pandit Gyanaba Popale. Hence, I pass the following order.

ORDER

- (i) Anticipatory Bail Application Nos. 1218 of 2021 and 1247 of 2021 are allowed.
- (ii) Anticipatory Bail Application No.1240 of 2021 is rejected.
- (iii) In the event of arrest of the applicants Milind Satyanarayan Chavan and Pandit Gyanaba Popale in connection with Crime No.0118 of 2021 registered with Bardapur Police Station, Dist.Beed, the applicants be enlarged on bail on furnishing PR Bond in the sum of Rs. 20,000/- each, with one or two sureties in the like amount.

- (iv) Applicants Milind Satyanarayan Chavan and Pandit Gyanaba Popale shall appear before the Investigating Officer on 27th, 28th and 29th December 2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for, till filing of charge sheet.
- (v) The applications stand disposed of.

(PRAKASH D. NAIK, J.)

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