

(1)

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

929 ANTICIPATORY BAIL APPLICATION NO.1440 OF 2021

NAGNATH LAXMAN YANNAWAR
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicant : Mr. Sudheer R. Zambare h/f.
Mr. Vikas R. Nawathe
APP for Respondents: Mr. A.V. Deshmukh
Investigating Officer Mr. Harishchandra Giri, PSI, Beed
is present.

CORAM : PRAKASH D. NAIK.

DATE : 16th DECEMBER, 2021.

PER COURT:

1] Private complaint was filed by the State Bank of India seeking directions under section 156(3) of Code of Criminal Procedure. In pursuant to that Crime No. 15 of 2021 has been registered with Beed City Police Station, for the offences under sections 420, 406 r/w. 34 of IPC. The FIR was registered against Kamal Waghmare, Vishnu Waghmare, Bhaiyyasaheb Waghmare and Nagnath Yannawar.

2] The case of the prosecution is that accused Nos.1 to 3 are residents of Borphadi, Taluka and District Beed. The account of Gram Panchayat Borphadi was opened with complainant Bank on 29.12.2016. Applicant had informed the complainant that account No. 3476114469 pertaining to construction of Anganwadi building was opened in the said bank and amount of Rs. 2,40,000/- received from the Government was deposited in the said account. The accused Nos.1 and 2 had snatched the cheque book of the aforesaid bank account and by forging his signature withdrawn the amount of Rs. 2 Lakhs on 9.4.2015 and Rs. 7,000/- on 10.4.2015. The necessary correspondence was exchanged with BDO, Panchayat Samiti. The complaint was made to police. Cognizance was not taken. The applicant had not lodged complaint about snatching of cheque book and withdrawal of amount. Hence it was suspected that all the accused have acted in connivance

(2)

with each other and misappropriated the amount.

3] The learned counsel for the applicant submitted that the applicant has not misappropriated the amount. The applicant has deposited entire amount with the bank. Reliance is placed on the receipt of Rs. 2,39,400/-. The accused Nos.1 and 2 had snatched the cheque book and forged his signature. The accused No.1 was Sarpanch. When the Auditor was conducting audit of Gram Panchayat, the applicant visited Bank for statement of account. It was noticed that amount was withdrawn on 30.12.2015. The applicant verified cheque and found that his signature was forged. On 29.02.2016, applicant submitted application to BDO informing him about incident. The applicant was Gram Sevak. He was not relieved since amount was withdrawn. The applicant deposited the amount under protest on 29.12.2016. The said fact was communicated to BDO, Panchayat Samiti, Beed. Applicant was relieved from Gram Panchayat on 31.12.2016. The applicant had submitted letter on 17.05.2017 to the Bank. The accused No.1 Kamal Waghmare (Sarpanch) resigned on 10.04.2015. Administrator was appointed. Another person was elected as Chairman.

4] The co-accused Kamal Waghmare, Vishnu Waghmare and Bhaiyyasaheb Waghmare had preferred application for anticipatory bail before the Sessions Court. Their application was allowed by order dated 17.2.2021.

5] Learned APP submitted that the conduct of applicant was suspicious. The amount was withdrawn in connivance with other accused. Merely on account of depositing amount, relief should not be granted to him.

6] While allowing the application preferred by co-accused vide order dated 17.02.2021 it was observed that there is five years delay in lodging complaint. The Investigating Officer had stated that sample of signature of those accused is required to be obtained for verification of signature on cheque. The sample signature can be

(3)

obtained during visit at Police Station. There is no need of custodial interrogation. However, the application preferred by applicant was subsequently rejected by order dated 21.10.2021. Amount is deposited. Nothing is to recovered.

7] Considering the factual aspects of the matter, the applicant need not be subjected to custodial interrogation. Hence, I pass the following order :-

ORDER

i] ABA No. 1440 of 2021 is allowed. Interim order dated 2nd December, 2021 is confirmed.

ii] In the event of arrest of the applicant in Crime No.0015 of 2021, registered with Beed City Police station, District Beed, the applicants be released on bail on executing PR Bond in the sum of Rs. 20,000/-, with one or more sureties in the like amount.

iii] The applicant shall appear before the I.O. on 27th and 28th December, 2021 between 11.00 a.m. to 1.00 p.m. and thereafter as and when called till filing of charge sheet.

iv] The application stands disposed of.

**[PRAKASH D. NAIK]
JUDGE.**

grt/-