

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1226 OF 2021

Balaram Bhaurao Patil Applicant

Versus

The State of Maharashtra Respondent

Mr. Ajit R. Pitale, for the applicant.

Mr. H.J. Dedhia, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 19th MAY, 2021

(Through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 15 of 2021, registered at Shahapur Police Station rural Thane Rural, under Sections 409, 420 read with Section 34 of the Indian Penal Code. The FIR was registered on 07/01/2021.

2. Heard Mr. Ajit Pitale, learned counsel for the applicant and Mr. H.J. Dedhia, learned APP for the State.

3. The case of prosecution is that Aasangaon Gram-Panchayat allotted tender of construction of underground sewage

pipeline to one Prtiam Bhere on 25/12/2019. The work had to be completed on or before 25/05/2020. The advance amount for purchase of cement pipes was disbursed to the said person to the extent of Rs.35.33 lakh. It is alleged that accused Pritam Bhere had partly completed the work worth Rs.06,95,593/- and there was misappropriation of Rs.28,37,407/-.

4. The applicant was village Development Officer from 21/01/2019 to 08/09/2020. He was responsible for disbursement of such amount and therefore after lodging of the FIR, he is apprehending his arrest.

5. Learned Counsel for the applicant submitted that the main accused Pritam Bhere who was beneficiary of that amount is granted bail by this Court vide order dated 05/04/2021 passed in Anticipatory Bail Application No. 670 of 2021. The applicant is not the beneficiary. Said order notes that the Sub Engineer attached to PWD Department, Panchayat Samiti, Shahapur, had accepted that work worth Rs. 35,46,091 was completed by Pritam Bhere. Learned Counsel for the applicant submitted that major

portion of the work was completed.

6. Learned APP submitted that there is some small portion of the work which has still remained incomplete. However, he fairly accepted that Pritam Bhere was the main accused who has received the amount. Learned APP submitted that it was duty of the applicant to see that the work was properly done and the amount was properly utilised. To that extent the applicant has failed in his duty.

7. As submitted by learned Counsel for the applicant, the main accused is granted anticipatory bail by this Court. A specific reference was made in that order to a letter dated 31/3/2021 issued by the Sub Engineer, PWD Panchayat Saimiti Shahapur which mentions that valuation of the completed work was Rs. 35,46,091/-. It was more than the amount mentioned in the FIR. On that basis anticipatory bail was granted to Pritam Bhere.

8. In this view of the matter, custodial interrogation of the applicant is not necessary. Subject matter of the FIR was the job,

which as of today is almost completed. Therefore, the present applicant also deserves the same protection. Whether lapses on the part of the applicant were deliberate amounting to any offence, can be decided during trial. At this stage the applicant's custody for investigation purpose is not necessary.

9. Hence the following order.

ORDER

- (i) In the event of his arrest in connection with C.R. No. , registered with Shahapur Police Station, Thane Rural, the Applicant is directed to be released on bail on his executing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The applicant shall attend the concerned Police Station as and when called and shall co-operate with the investigation.
- (iii) The application is disposed of accordingly.

(SARANG V. KOTWAL, J.)