

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

**ANTICIPATORY BAIL APPLICATION NO. 2734 OF 2019
WITH
INTERIM APPLICATION NO. 1641 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO. 2734 OF 2019**

Dhanaji Mahadev Thakur	 Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. Rahul Thakur a/w. Mr. Sanket Thakur, Ms. Sushmita Tandel and Ms. Nikita Patil for the Applicant.
Mr. Nitin Sejpal for the Intervenor (in IA/1641/2019).
Mr. Ajay Patil, APP for the State – Respondent.

CORAM: SARANG V. KOTWAL, J.

DATED : 22nd SEPTEMBER, 2021.

P. C. :-

. The Applicant is seeking Anticipatory Bail in connection with C.R.No.220/2019 registered with Uran Police Station, Navi Mumbai on 16/10/2019 under Section 420, 409 r/w. 34 of the Indian Penal Code.

2. The first information report (for short 'F.I.R.') is lodged by one Krishna Vitthal Thakur. He has stated that the Applicant was Sarpanch of Dhutum Gram Panchayat for the year 2007 to 2011. It is alleged in the FIR that the Applicant in connivance with Gram Sevak – Ajit

Rambhau had committed misappropriation of amount. It was mentioned so in the Audit Report. According to the first informant, the misappropriation was committed in respect of some jobs related to water supply, health, electricity, construction of new office and other development work. According to the first informant, the amount of Rs.33,73,896/- was spent without there being any sanction of Panchayat Samiti. Similarly, Rs.12,99,000/- were spent unnecessarily, thereby misusing the sanctioned amount. It is also alleged that sanctioned amount was deducted for income tax but it was not deposited with the Government. That amount was around Rs.75,301/-. In short, the allegations are that there was misappropriation of amount to the tune of Rs.54,41,942/-. On this basis, first information report was lodged.

3. Mr. Rahul Thakur, learned counsel for the Applicant has tendered a compilation of documents in Court. He had given copies of the same to the learned counsel for the intervenor and the learned APP. Learned counsel for the Applicant invites my attention to the extract from the Audit Report, carried out between the year 2007 to 2011. In that report on page 9 of the compilation, it was mentioned that the objections during the Audit were verified and the documents were

found to be in order. Learned counsel for the Applicant therefore submits that the Audit Report did not mention any misappropriation of any amount. He submits that in the year 2016, there was an incident wherein the Applicant was assaulted with iron rods and deadly weapons. In that case, first informant's nephew is one of the accused. The case is pending for hearing and to pressurize the Applicant, this FIR is lodged against the Applicant. Mr. Thakur, learned counsel for the Applicant submits that there is no misappropriation of amount and the FIR is lodged out of grudge.

4. Learned APP submits that the investigation is going on and the report from CEO of Zilla Parishad is still awaited. He submits that the allegations in the FIR requires investigation.

5. Learned counsel for the Intervenor submits that the Audit Report itself mention that the certain documents were not available and therefore any possible shortcoming in the report was only because of non availability of documents. He therefore submits that the Applicant deliberately did not supply the requisite documents and thereby tried to protect himself.

6. I have considered these submissions. The allegations pertain to

the year 2007 to 2011 i.e., gap of more than 10 years from today. The allegations are that certain amounts were not used for the purpose for which they were sanctioned. It is difficult to pin point the liability on the present Applicant. As pointed out by Mr. Thakur, learned counsel for the Applicant, the audit report is in respect of audit conducted in that period did not make any allegations against the present Applicant. For all these years, none of the parties has raised any doubt or suspicion about the misappropriation of the amount which is the subject matter of this FIR. There is also some substance in the submissions of Mr. Thakur that the present FIR is a counter blast to the case of assault whereby the accused is tried for offence punishable under Section 307 of the Indian Penal Code. In that incident, the Applicant was assaulted on the head.

7. Considering the long gap of period of the alleged offence and the nature of allegations, custodial interrogation of the Applicant is not necessary. The investigation can be carried out even without his custody. Hence, the following order :-

ORDER

(a) In the event of the arrest of the Applicant in

connection with C.R.No.220 of 2019 registered at Uran Police Station, Navi Mumbai, he is directed to be released on bail on furnishing P. R. bonds in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(b) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.

(c) Application stands disposed of accordingly.

8. I have heard the learned counsel for the Intervenor. With the disposal of the Anticipatory Bail Application, Interim Application does not survive and is disposed of.

(SARANG V. KOTWAL, J.)

**PREETI
H JAYANI**

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