IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

CRIMINAL APPLICATION (ABA) NO. 25 OF 2021
(Premdas s/o Ramji Rathod ..vs.. State of Maharashtra, through PSO City Kotwali, Amravati)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. A.M. Jaltare, Counsel for the applicant,
Mr. N.R. Rode, Addl.P.P. for the non-applicant/State.

CORAM : ROHIT B. DEO, J.
DATED : 08-03-2021

Heard.

2. The applicant is apprehending arrest in Crime 251/2020 registered with Police Station City Kotwali, Amravati for offences punishable under Sections 420, 468 and 471 read with Section 34 of the Indian Penal Code.

3. The crime is registered on the basis of first information report dated 24-8-2020 lodged by Mr. Dnyaneshwar Govindraoji Alood-the Office Superintendent of the Amravati Municipal Corporation alleging massive financial irregularities in the implementation of the Swachha Maharashtra Abhiyan. The report alleges that 13 fraudulent bills for Rs.2,49,22,000/- (Rupees Two Crore Forty Nine Lakh Twenty Two Thousand) were submitted by the Contractors towards the alleged construction of individual toilets and were passed and the amount

disbursed. While the applicant is not named in the report, his role has surfaced during the course of investigation. The prosecution case is, that the State Government extended grants to implement the scheme of construction of individual toilets under the Swachha Bharat Abhiyan, in Zone-4 of Badnera, Amravati City. Seven Contractors raised bills on the basis of forged and fabricated documents to the tune of Rs.2,49,22,000/- (Rupees Two Crore Forty Nine Lakh Twenty Two Thousand) although not a single toilet was constructed. The prosecution contends that the applicant was working as the Chief Accounts Officer and was duty bound to verify the bills and to ascertain whether the file contains the necessary supporting documents. The necessary documents which the applicant was *inter alia* duty bound to verify are the demand raised by the Contractors which shall be accompanied by Geo-tagging colour photographs of the spot of the construction of the toilet, the work order and the list of beneficiaries with the photographs of beneficiaries which is required to accompany the demand. The applicant then issues bank advice letter in which the name of the Contractor and the amount is mentioned, which advises are then forwarded to the Audit Section. The Audit Section then verifies the file and places the same before the sanctioning authority-Assistant Commissioner (Administration) and after sanction, the file is again placed before the applicant for the disbursement of the amount and forwarding the

RTGS slip and cheque duly signed. The prosecution contends that during the course of investigation, it is revealed that the files were never placed before the sanctioning authority and the signatures of the sanctioning authority are forged. The sanctioning authority denies the signatures on the files. The prosecution contends that 13 files were not accompanied by the bills or demand notes. In few files, there were some photographs which were repeatedly used in multiple files and all 13 files were having multiple alterations, overwriting and manipulations. It is specifically contended that the files did not contain the demand or Geo-tagging and shockingly the payments were released in the names of persons other than those mentioned on the bank advice.

The prosecution has produced the case diary and the files and in order to *prima facie* consider the substance in the allegations, I have examined 13 files generally and as test cases two files to wit file as File 21 and File 24 minutely. While, it would not be necessary, and indeed appropriate, to make any decisive observation on the material on record at the stage of deciding the entitlement of bail, reasons will have to be indicated, particularly since the learned Counsel Mr. A.M. Jaltare for the applicant has strenuously argued, relying on the affidavit of the applicant and certain documents placed on record, that it was not the duty of the applicant to verify the bills, as is alleged and that it was the applicant who is whistle-blower.

4. One extremely serious allegation, and the primary role attributed is to the applicant, may now be noted. According to the prosecution, there are multiple alterations and overwriting in File 24 and the amount of Rs.4,93,000/- (Rupees Four Lakh Ninety Three Thousand) is altered to Rs.28,73,000/- (Rupees Twenty Eight Lakh Seventy Three Thousand). Similarly, in File 21, the amount of Rs.2,89,000/- (Rupees Two Lakh Eighty Nine Thousand) is altered to Rs.28,05,000/- (Twenty Eight Lakh Five Thousand). While I would refrain from making a reference to minute details, *prima facie* the said allegation appears to be well founded. Notably, the scrachings and interpolations in the files are signed by the applicant herein who has vouched for the correctness of the claim.

5. According to the prosecution, custodial interrogation is imperative since a massive fraud is perpetrated and other senior officers of the Corporation are likely to be involved, whose identity and role would come to light only if the investigating agency has the opportunity of custodially interrogating the applicant.

6. I am inclined to agree with the contention of the prosecution. Such crimes are committed pursuant to a deep rooted conspiracy which is ordinarily well planned

and executed with the assistance of several persons, and the role of some of them may not have surfaced till date. It would be custodial interrogation which would unearth all the facets of the crime. Considering the material on record and the need of custodial interrogation, discretion cannot be exercised in favour of the applicant.

7. The application is dismissed.

JUDGE

adgokar

Prafulla Adgokar
Digitally signed by Prafulla Adgokar
Date: 2021.03.09 16:48:01 +0530