

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

CRIMINAL APPLICATION (BA) NO.586 OF 2021

(Ku. Sumitra Bhaskar Wankhade Vs. The State of Maharashtra thr. PSO PS Washim
(Rural), Tah. & Dist. Washim)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. S.M. Vaishnav, Advocate for Applicant.
Mr. M.K. Pathan, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 17th JULY, 2021.

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. The applicant woman is in custody since 02.02.2021 in connection with Crime 395/2020 registered with Police Station Washim (Rural), Tahsil and District Washim for offence punishable under Sections 420, 409, 465, 471 read with Section 34 of the Indian Penal Code.

3. The applicant was then working as Secretary, Gram Panchayat, Chikhli (B.K.).

4. According to the applicant, she was asked to take additional charge of Gram Panchayat Chikhli (B.K.) and she was already holding charge of Gram Panchayat Sawargaonwarde.

5. It is further submitted that Gram Panchayat Chikhli (B.K.) of which the applicant took additional charge is a group Gram Panchayat comprising three villages.

6. The allegation against the applicant and the other accused, which include the Sarpanch, is commission of financial irregularities in installation of LED lights.

7. The investigation is complete and the charge-sheet is filed.

8. While the offences which are alleged are indeed grave, in the sense, that conviction may entail life imprisonment, I am inclined to hold that a case for grant of bail is made out.

9. The applicant is neither a chronic offender nor is she is alleged of being involved in multiple dubious transactions. The applicant is a woman who is in custody since last more than five months, and it is not even the case of the prosecution that she would, if released on bail, either pose a flight risk or would be in a position to subvert the course of trial by influencing the witnesses etc. Touching the said aspect, Mr. Vaishnav fairly states that if released on bail, the applicant shall not enter the territorial limits of Gram Panchayat Chikhli (B.K.), till the conclusion of the trial.

10. The co-accused Ratnamala, the then Sarpanch is absconding, is the affidavit of the Investigating Officer. If that be so, the possibility of an early trial is remote. This is a relevant circumstance, particularly since the applicant is a woman who is a government employee, albeit under suspension, and who is not a flight risk.

11. Bail ultimately cannot be denied as a pre-trial punishment.

12. I have consciously refrained from considering the material in the charge-sheet on merit. That would not be necessary. Suffice it to state, that even assuming that there is material to suggest financial irregularities, considering that the trial is not likely to commence in near future in view of the failure of the Investigating Officer to arrest the co-accused, I see no purpose in continuing with the incarceration.

13. The application is allowed.

14. The applicant be released from custody subject to the following conditions:

- (i) The applicant shall execute the personal bond of Rs.15,000/- with a surety of like amount.
- (ii) The applicant shall not indulge in any criminal activity while on bail.

- (iii) The applicant shall not enter the territorial limits of Gram Panchayat Chikhli (B.K.), till the conclusion of the trial unless specifically permitted to do so by the jurisdictional court, for just reasons.
- (iv) The applicant shall attend every date of hearing and shall make available to the Investigating Officer her phone numbers and the residential address and keep the Investigating Officer updated of the change, if any.
- (v) The applicant shall not make any attempt to influence the witnesses, directly or indirectly.
- (vi) The applicant shall not leave the country without permission of the jurisdictional court.

15. The application is disposed of accordingly.

JUDGE