

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

CRIMINAL APPLICATION (ABA) NO. 646 OF 2020

(Ajay Bhaskar Kulkarni, Pune Vs. State of Maharashtra)

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

Court's or Judge's orders.

Shri S.V. Sirpurkar, Advocate for the applicant.
Shri M.J. Khan, A.P.P. for the respondent.

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CORAM : PUSHPA V. GANEDIWALA, J.
JANUARY 25, 2021.

Heard.

2. The present application is filed by the applicant apprehending his arrest in Crime No. 687/2019 dated 02/07/2019 registered at Police Station, Gadge Nagar, District Amravati for the offence punishable under Sections 409, 420 and 109 read with Section 34 of the Indian Penal Code, 1860 (for short "IPC").

3. The allegation against the present applicant, as per the prosecution case, is that he having hand-in-gloves with the main accused Ganesh Chaudhari, has misappropriated an amount of Rs. 1 crore and 34 lakh.

4. The prosecution story, in nutshell, is that on 02/07/2019, the informant Digambar – an Accountant, Convergence of Agricultural Intervention

in Maharashtra (CAIM), Amravati, lodged a report with the Gadge Nagar Police Station stating therein that CAIM project was started in the year 2009 and was for a period up to December 2017. Lateron, it was extended for a period of one year i.e. up to December 2018. The present applicant was the Additional Project Director of the said project during the period between 26/10/2016 to 31/01/2018. The said project is funded by International Fund for Agricultural Development - an agency of United Nations having its headquarter in Italy. The said program was for upliftment of distressed districts due to suicide of farmers.

5. It is alleged that the present applicant, while working as an Additional Project Director, has misappropriated funds and have floated the procurement guidelines issued by the IFDA, Delhi, in collusion with the other accused persons.

6. Initially, the report was lodged against accused No.1 Ganesh Chaudhari. Considering the gravity and volume of the offence, the investigation came to be transferred to the Economic Offences Wing, Amravati. The activities under the said program includes Vocational Development training, LEISA KIT training, Fodder Kit distribution and Dairy Kit distribution.

7. The present applicant being the Additional Project Director was required to assist and observe the programs, which were to be implemented at the district levels through the District Project Manager - the contractual employee of the project. It is alleged that initially, the present applicant had posed himself as a General Manager of the Solace Company, which expressed its interest in imparting training of live stock development even before it was registered. The applicant had forwarded mails to all the District Project Management and Implementing Agency in the capacity of General Manager of the Solace Company by using e-mail I.D. of the Bilips Company. It is further alleged that it was misrepresented before the international agency that the applicant was working with the Bilips Company.

8. The auditor in his report specifically mentioned the role of the present applicant in granting benefits and disbursal of amount to the Solace Company and also to the Yashasvi Academy, where the applicant was initially working. It is further alleged that the Directors of the Solace Company includes wife of accused Nos.2 and 3 and nephew of accused No.1, and the present applicant was working as a General Manager with the Solace Company, and that this connection is sufficient to show modus operandi of siphoning the public money.

9. Shri Sirpurkar, learned counsel for the applicant, submits that the other co-accused Ganesh has already been granted regular bail by the trial Court vide order dated 11/10/2019 passed in Misc. Criminal Application No. 1082/2019. That the present applicant had no authority to take any financial decision. Also, his name was not found mentioned in the First Information Report, and he is not the beneficiary for the alleged fraud, and thus prayed for granting anticipatory bail to the applicant.

10. Per contra, Shri Khan, learned A.P.P., strongly opposed the bail application through the reply affidavit filed on record, and prayed for rejection of the bail application.

11. I have considered the submissions put forth on either side and perused the record.

12. At the outset, the anticipatory bail application of accused No.1 Ganesh Chaudhari came to be withdrawn on 18/09/2019, when this Court was about to dismiss the same. He is said to be released on regular bail after his arrest.

13. The crux of the allegations, against the present applicant, is that at the instance of the present applicant, the contracts for imparting training etc. were awarded to the institutions, wherein he was working prior to his assignment as an Additional

Project Director in CAIM, Amravati. The amount of misappropriation is to the tune of Rs. 1 crore and 34 lakh. The said amount was to be used for welfare of the farmers in the village in a fair and transparent manner.

14. Shri Khan, learned A.P.P, pointed out from the case diary about the involvement of the present applicant in allotting contracts without following the IFAD norms. It is also pointed out by the learned A.P.P. that the contract for training to farmers was given to the Solace Animal Husbandry Activities for Rural Advancements, Pune, through single source procurement without following the procurement guidelines and without taking approval of the IFAD. That the cost incurred for this project was Rs. 83,69,500/- (rupees eighty three lakh sixty nine thousand and five hundred) during the year of one day training to farmer producer.

15. Furthermore, the Solace company, to whom the contract was given, was not the recognized institution, as per the norms laid down for the project. Initially, the applicant has represented himself as a General Manager of the Solace Company to the IFAD, and thereafter entered into the project as an Additional Project Director, and at his instance, contracts of lakhs of rupees have been allotted to the Solace Company.

16. At this stage, since the applicant have been assigned the duty of the Additional Project Director on consolidated honorarium of Rs. 75,000/- (rupees seventy five thousand) on a contractual basis, and since he was initially working as a General Manager in the company to which the contracts have been awarded, without following the procedure, smells involvement of the present applicant in the alleged modus operandi.

17. The punishment provided under Section 409 of the IPC is imprisonment for life or with imprisonment of either description for a term which may extend to ten years with fine.

18. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that no case for anticipatory bail is made out by the learned counsel for the applicant, as custodial interrogation is necessary in the instant case. Hence, the application is rejected.

JUDGE

Sumit