

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.265 OF 2022

MANIK S/O SHANKARRAO CHAVAN
VERSUS
THE STATE F MAHARASHTRA

.....

Senior Counsel for Applicant : Mr. R. S. Deshmukh i/b Mr. S. C. Bhosle
APP for Respondent-State : Mr. V. M. Kagne

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**WITH
ANTICIPATORY BAIL APPLICATION NO.200 OF 2022**

RAVINDRA EKNATH TORADMAL
VERSUS
THE STATE F MAHARASHTRA AND ANOTHER

.....

Senior Counsel for Applicant : Mr. M. S. Deshmukh
APP for Respondents-State : Mr. V. M. Kagne

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**WITH
ANTICIPATORY BAIL APPLICATION NO.190 OF 2022**

MADANSINH S/O DATTUSINH THAKUR AND ANOTHER
VERSUS
THE STATE F MAHARASHTRA

.....

Senior Counsel for Applicant : Mr. Patil Indrale A.V.
APP for Respondent-State : Mr. V. M. Kagne

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CORAM : SMT.VIBHA KANKANWADI, J.

**Date of Reserving the Order :
16-03-2022**

**Date of Pronouncing the Order :
06-05-2022**

ORDER :

1. The applicants are apprehending their arrest in connection with Crime No.215 of 2021, for the offence punishable under Section 409, 420, 465, 467, 468, 471, 474, 120-B r.w.34 of the Indian Penal Code.
2. Heard learned Senior Counsel Mr. R. S Deshmukh instructed by learned Advocate Mr. S. C. Bhosle, learned Advocate Mr. M. S. Deshmukh, learned Advocate Mr. A. V Patil Indrale for applicants and learned APP Mr. V. M. Kagne for respondents-State.
3. Perusal of the FIR would show that it has been lodged by one Shaikh Jakir Shaikh Sagir who claims to be the founder Chairman of Information Protection Committee of Naigaon. Applicant Manik Chavan is the Deputy Chief Executive Officer of Zilla Parishad Gadchiroli (Narega). He was posted as Block Development Officer at Panchayat Samiti, Naigaon between 15-8-2016 to 29-11-2017. Applicant Ravindra Eknath Toradmal who is now serving as Junior Account Officer with Panchayat Samiti Naigaon. It is stated that he joined at the promotional post on 20-12-2016. Applicants Madansinh Dattusinh Thakur and Shankar Govindrao Warkhinde are

the Junior Assistant and Assistant Accountant with the Panchayat Samiti Office, Naigaon. It has been alleged by the informant that they have committed misappropriation by forging documents and cheating the Government to the tune of Rs.6,28,500/-. The FIR says that the occurrence of offence is stated to be from 01-01-2016 to 23-08-2021. The documents which have been produced on record would show that even earlier complaint was filed in respect of alleged misappropriation by one Avinash Pundlikrao Itkapalle. An inquiry was conducted and the report has been given by Deputy Chief Executive Officer Grampanchayat, Zilla Parishad, Nanded to Chief Executive Officer, Zilla Parishad, Nanded on 01-01-2018. It was then stated that all these applicants were responsible for expenditure but the amount was withdrawn for some personal reasons and it was distributed to about 11 persons in cash. It was then stated that amount of Rs.4,74,000/- should be recovered from the three named persons. Further, the documents produced by the applicants which are the Government documents show that the departmental inquiry is still pending against the applicants about the amount, then a third person cannot come in picture and say that there is misappropriation. The applicants would demonstrate that the amount has not been misappropriated or has gone into their

pocket, but it has been given in cash to those persons from whom the work has been got done. The only objection may be that the amount has been paid in cash, but at no stretch of imagination it can be said that it is misappropriated. The applicants are facing the departmental inquiry and on that basis offence of criminal nature cannot be invoked. The investigation of the offence is dependent on the documents which are already in the possession of the Grampanchayat or Zilla Parishad. Therefore, the custodial interrogation of the applicants is not necessary. The applicants are ready to abide by the terms of the bail.

4. The learned APP has strongly opposed the application and submitted that at present on the basis of preliminary inquiry it has been opined that the superior of the applicants that they have misappropriated amount of Rs.4,74,000/-. That amount is yet to be recovered. The investigation is at a very preliminary stage. Since the applicants are public servants, they cannot afford to misappropriate the public funds, and therefore, this being a economic offence, the applicants need not be released on bail.

5. At the outset, it is to be noted that none of the Zilla Parishad Authorities have lodged any report contending that there is

misappropriation of the amounts. Whatever inquiry is stated to have been commenced, it is after the complaint application filed by Avinash Itkapalle on 29-08-2017. Till today it appear that said Avinash has not lodged any criminal complaint against the present applicants. Criminal complaint can be lodged by any person as anyone can set the criminal law in motion. But the informant in this case considers that he is the founder Chairman of a committee under the Right to Information Act. That means, he wants to be a whistle blower and says that he had unearth 31 offences, but he has not stated under which provisions of law his said committee is registered. The departmental inquiry appears to be going on and no final conclusion has been drawn by Zilla Parishad. Definitely the applicants had right to challenge the preliminary report and it appears that they have so challenged it. Under such circumstances, when the things are at a preliminary stage, it would have been a premature aspect for the informant to directly come to the conclusion without there being any supporting documents. Why the Zilla Parishad is taking so much of time to conclude the departmental inquiry, is also a question. The documents on which the departmental inquiry is going on, is still with the Zilla Parishad, and therefore, the investigation will not get hamper. The custodial

interrogation of the applicants under the above circumstances are not required, and therefore, their applications deserve to be allowed, and accordingly they are allowed. Hence, following order.

ORDER

1. All the applications stand allowed.
2. In the event of arrest of the applicants Manik s/o Shankarrao Chavan, Ravindra w/o Eknath Toradmal, Madansinh s/o Dattusinh Thakur, and Shankar s/o Govindrao Warkhinde, in connection with Crime No.215 of 2021, registered with Naigaon Police Station, Taluka Naigaon, District Nanded, for the offence punishable under Section 409, 420, 465, 467, 468, 471, 474, 120-B r.w.34 of IPC, they be released on P.R.Bond of Rs.50,000/- each with two solvent sureties of Rs.25,000/-each.
3. The applicants to remain present before Investigating Officer as and when called, for which, if required, the Investigating Officer may call them either individually or jointly, and for that purpose, the

Investigating Officer to give intimation to the applicants 48 hours in advance. The applicants shall not avoid to remain present before Investigating Officer on any count after they received the due intimation.

4. The applicants shall not tamper with the evidence of the prosecution in any manner.

5. They shall not indulge in any criminal activity.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.