

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.1632 OF 2021

Yogesh Rajan Gurav

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.N.L. Chaudhari Advocate for Applicant.
Mr.V.M. Kagne, A.P.P. for Respondent-State.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 27th JANUARY, 2022

ORDER :

1. The applicant is apprehending his arrest in connection with Crime No.107 of 2021 registered with Shirpur Police Station, Taluka-Shirpur, District-Dhule, for the offence punishable under Section 409 of the Indian Penal Code and Section 8 and 9 of the Maharashtra Public Records Act, 2005.

2. Heard learned Advocate for the applicant and learned APP for the respondent – State.

3. It has been vehemently submitted on behalf of the applicant that perusal of the First Information Report would show that there was a complaint application filed by 13 employees attached to the Primary Health Centre, Boradi on 18th August 2021. Thereafter, an inquiry committee was appointed. When the committee paid visit to the Primary Health Centre, Boradi, at that time the present applicant remained absent and had not co-operated with the committee. It is alleged that the present applicant had not deposited the charges which were received from the public when they had visited for Out Patient Department (for short "O.P.D."). After the calculation, it was revealed by the committee that the applicant has misappropriated amount of Rs.2,86,290/- towards O.P.D. case papers. It is then alleged that the present applicant had not provided certain registers, pay-bills etc. It was also alleged that in respect of the salary of the co-employees the present applicant has given extra amount of about Rs.7,34,346/- to the respective employees and so also he had manipulated the figure of his own salary. It is therefore, concluded that the present applicant has misappropriated in all amount of Rs.7,34,346/ towards salaries and Rs.2,86,290/- towards O.P.D. charges. The

present applicant is a heart patient and therefore, he could not remain present when the committee paid visit. He has now deposited amount of Rs.10,20,636/- and the copy of the statement of his account has been produced at Exhibit-C. Other employees have deposited the amount within the stipulated time given by the committee, however, the applicant could not arrange for the said amount and therefore, he had not deposited that amount, which led to the registration of the First Information Report. Now his physical custody is not required. He will co-operate with the investigation.

4. Per contra, the learned APP strongly opposed the application and submitted that mere deposit of the amount will not absolve the applicant. The applicant has not produced many documents and in fact he has unauthorisedly kept those documents with him. If those registers would be taken into possession by the police then it is the say of the Investigating Officer that the misappropriated amount may go to much more than the amount that has been deposited. His custodial interrogation is necessary.

5. At this stage, it is to be noted that the present applicant has been suspended and the First Information Report which has been lodged by Dr. Rajendra Suresh Bagul, Taluka Health Officer, Shirpur would show that the committee was appointed but due to non-co-operation of the applicant and non-production of the documents, they have arrived at a conclusion that the misappropriated amount is to the extent of Rs.10,20,636/-. The misappropriation is stated to be in respect of extra payment to the employees as well as the present applicant. In fact the committee could have collected the second copy of the pay-bill which is always with the Treasury Office in case of the Government servants and they could have calculated exactly how much amount is misappropriated under that head. It cannot be said that the original pay-bills were necessary in that respect.

6. Secondly, as regards the O.P.D. case paper charges misappropriation is concerned, the committee had considered the patient register and it appears that in all 57,258/- patients visited, who were supposed to deposit Rs.5/- per patient for the case papers. Therefore, when certain amount is arrived at and now it appears that the applicant has deposited that amount, the custodial interrogation would be restricted to the submission of

papers which can be made available by imposing a condition to that effect to the applicant. Further, substantial part of the investigation appears to have been conducted. Therefore, with imposing strict conditions, the application deserves to be allowed. Hence the following order:-

ORDER

- i) Application stands allowed.
- ii) In the event of arrest of the applicant – Yogesh Rajan Gurav in connection with Crime No.107 of 2021 registered with Shirpur Police Station, Taluka-Shirpur, District-Dhule, for the offence punishable under Section 409 of the Indian Penal Code and Section 8 and 9 of the Maharashtra Public Records Act, 2005, he be released on bail on PR Bond of Rs.50,000/- (Rupees Fifty Thousand) with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand) each.
- iii) The applicant shall appear before the Investigating Officer on 29th January 2022 and shall produce all those documents of the Primary Health Centre which are in his possession. If anything remains, applicant shall produce it on 31st January

2022. The time will not be extended beyond that and if the applicant does not produce those documents on these two dates, the Investigating Officer may report it to this Court and it may lead to cancellation of bail.

iv) The applicant shall remain present before the Investigating Officer on every Monday, Wednesday and Saturday between 10.00 a.m. to 2.00 p.m. till filing of the charge-sheet and co-operate with the investigation.

v) Applicant shall not tamper with the evidence of the prosecution in any manner.

[SMT. VIBHA KANKANWADI , J.]