IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1286 OF 2022

Sachin Tukaram Unde …Applicant
Vs.
The State of Maharashtra
(At the instance of Ghodegaon
Police Station, District Pune Gramin) … Respondent

****

Mr.Rajesh G. Bane for applicant.

Ms.G.P. Mulekar, APP for the State.

****

CORAM : N. J. JAMADAR, J.
DATE : 13th MAY, 2022
(VACATION COURT)

P.C.:

1. This application is preferred for pre-arrest bail in connection with C.R. No. 72 of 2022 registered with Ghodegaon Police Station, Pune for the offences punishable under sections 409, 467, 471, 474 and 477-A read with 34 of the Indian Penal Code, 1860 ('the Penal Code') and section 9 of the Maharashtra Public Records Act, 2005.

2. The applicant was posted as a Village Development Officer at Ghodegaon Village Panchayat from 22nd October 2020 to 3rd August 2021. The co-accused Yuvraj Ramchandra Gunjal and Kailas Dagadu Doke were employed by the Village Panchayat to collect the taxes and cess from the members of the Village Panchayat. In a monthly meeting of the Village Panchayat held on 25th February 2022, few members raised a grievance that despite having already paid the property tax and water tax for the

previous year, demands were again being made by the Village Panchayat for the said payment. Copies of the receipts issued by the co-accused Yuvraj Gunjal and Kailas Doke were shown to Kranti Prashant Gadhave, the Sarpanch (first informant) and other members of the Village Panchayat. It transpired that the said Yuvraj Gunjal issued forged receipts and *prima-facie* the Village Panchayat was de-frauded to the tune of Rs.10,13,531/-. Upon further inquiry, it transpired that during the period 2019-2021, the co-accused and the applicant had not at all deposited the amount in the public account. Out of the amount recovered from the villagers, 20% was appropriated by the co-accused and balance 80% was siphoned off by the applicant. Eventually, the first informant lodged report leading to registration of C.R.No.72 of 2022.

3. Apprehending arrest, the applicant approached the Court of Session. The learned Additional Sessions Judge, Khed- Rajgurunagar, District Pune declined to exercise the discretion in favour of the applicant. Thus, the applicant has preferred this application.

4. I have heard Mr. Rajesh Bane, the learned counsel for the applicant and Ms.Geeta Mulekar, the learned APP for the State.

5. Mr.Bane would urge that the alleged fraud was committed right from the year 2012. A number of persons were appointed as Village Development Officer at Village Panchayat during the said period. From the own showing of the Panchayat Samiti, Ambegaon, the alleged fraud during the tenure of the applicant was to the tune of Rs.4,13,874/- only.

Vide notice dated 25th March 2022 liability was sought to be fastened on the applicant to the tune of Rs.2,06,892/- (50% of the defrauded amount). In this backdrop, according to Mr. Bane, the claim that 80% of the amount collected during the period 2019-2021 was paid to the applicant, is wholly improbable. It was further submitted that the day-to-day recovery of the property tax and water tax was the responsibility of the co-accused. There is no material to show that the applicant either forged the documents or falsificated the account. Therefore the applicant deserves pre-arrest bail.

6. Ms.Mulekar, the learned APP, on the other hand, submitted that the fact that the applicant was posted at Ghodegaon Village Panchayat during the relevant period and there was a fraud in remitting the amount collected from the villagers to the treasury, are incontestable. The applicant, thus, cannot wriggle out of the situation by simply asserting that the duty to collect the tax was of the co-accused, since ti was the responsibility of the applicant to maintain the accounts.

7. Evidently, in addition to the prosecution, the Panchayat Samiti Ambegao initiated disciplinary proceedings against the applicant by issuing a show-cause notice on 25th March 2022. Two factors deserve consideration. One, the applicant was posted from 21st October 2020 to 3rd August 2021 as Village Development Officer. Two, a fraud in collection and remittance of the property and water tax has allegedly been

committed during the said period. There are allegations to the effect that forged receipts were issued. The fraud was unearthed when the members of the Village Panchayat were served with a demand for payment of taxes which they had already paid.

8. Indisputably, the amount which was allegedly recovered bythe co-accused from the villagers is not reflected in the ledger account maintained by the Village Panchayat. The learned Additional Sessions Judge rightly recorded that it was the responsibility of the applicant to examine the receipts and maintain proper accounts.

9. In this backdrop, the material disclosed during the course of investigation that the applicant was also a privy to the fraud and had made a wrongful gain are required to be considered.

10. *Prima-facie,* the offences of criminal breach of trust, misappropriation and falsification of accounts are made out. From the aforesaid standpoint, to unearth the fraud, in all its facets, the custodial interrogation of the applicant appears imperative. I am, therefore, not persuaded to exercise the discretion in favour of the applicant.

11. Hence, the following order :

O R D E R

The application stands rejected.

(N. J. JAMADAR, J.)