

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

CRIMINAL APPLICATION (APL) NO.1010/2022

Anita Digambar Agashe

..VS..

State of Mah., thr.PSO Pusad (Rural), Tahsil Pusad, District Yavatmal and anr

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

Court's or Judge's Order

.....
Mr.G.M.Kubade, Counsel for the Applicant.

Mr.V.A.Thakare, Additional Public Prosecutor for Non-applicant 1.

CORAM : ROHIT B.DEO & URMILA JOSHI-PHALKE, JJ.

DATED : 11/10/2022

1. The applicant is seeking quashment of the First Information Report registered at Police Station, Pusad (Rural), district Yavatmal vide Crime Number 153 of 2022 for offences punishable under Sections 420, 468, 470 and 471 of the Indian Penal Code. The crime is registered on the basis of the report lodged by the Extension Officer, Panchayat Samiti, Pusad on 8.4.2022. The applicant has implicated the informant officer as non-applicant 2. Considering that the crime is registered under the provisions of the Indian Penal Code and not any special enactment which confers the right of hearing on the first informant, notwithstanding that the notice issued to the first informant is awaited, we see no impediment in continuing with the hearing.

2. We have perused averments in the report. The allegations against the applicant who is the formal Secretary of the Gram Panchayat, Hudi is that she committed misappropriation of Rs.14,34,366/- (Rupees Fourteen Lacs Thirty Four Thousand Three

Hundred Sixty Six Only) between 29.6.2018 to 3.3.2020. The First Information Report is lodged on the basis of the findings recorded by the enquiry committee which submitted its report on 24.12.2019.

3. The first submission of learned counsel Mr.G.M.Kubade for the applicant is that although the applicant is arrayed as accused, the others responsible for misappropriation are not as yet implicated in the crime. We have noted the said submission, only as courtesy to the learned counsel. We note that the investigation is ongoing. We have no reason to assume that the Investigating Officer shall not bring the other culprits to book, if there is evidence against them. In any event, that indulgence is shown to the co-accused cannot a ground for quashing the First Information Report implicating the applicant in the crime.

4. We have perused the affidavit in response filed on behalf of the State. The State has also placed on record the order dated 14.7.2020 rendered by this Court whereby the application for pre-arrest bail preferred by the applicant came to be dismissed. While the observations in the order rejecting pre-arrest bail are not strictly relevant for the purpose of deciding whether the case for quashment is made out, we note from the affidavit in response that there is ample material on record in the form of the statements of the witnesses and the documentary material to *prima facie* implicate the applicant in the misappropriation. We further note that Four Member Committee of the Panchayat Samiti, Pusad has conducted a detailed enquiry. It is further stated in the affidavit in response that the

investigating agency has also found the involvement of the other accused persons in the crime. If this be so, we expect the Investigating Officer not to cherry-pick and to ensure that the pragmatic of the investigation covers all such persons whose role is *prima facie* found in the investigation. We make it clear that our observations shall not prejudice the applicant if she opts to seek discharge after the submission of the final report. Any further application moved or proceedings taken out by the applicant shall be considered on own merit uninfluenced by the rejection of this application.

5. The application is dismissed.

(URMILA JOSHI-PHALKE, J.)

(ROHIT B.DEO , J.)

!! BrWankhede !!

BHUSHAN
RANA
WANKHEDE

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by BHUSHAN
RANA
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