

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

Criminal Application [ABA] No.693 of 2021

Sonal Baliram Ingale

vs.

State of Maharashtra, through P.S.O. Malegaon, District Washim

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

Court's or Judge's Orders

Mr. Rohan Chandurkar, Advocate for the Applicant.
Mr. M.J. Khan, A.P.P. for the Non-Applicant/State.

CORAM : SURENDRA P. TAVADE, J.
DATE : 10th FEBRUARY, 2022.

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

02] This is an application filed by the applicant apprehending his arrest in connection with Crime No.578/2020 registered with Malegaon Police Station, District Washim for the offences punishable under Sections 406, 409, 420, 465, 468, 471 read with Section 34 of the Indian Penal Code.

03] It is contended that informant - Madhav Ramkrushna Sakhare, who is working as Extension Officer of NAREGA, Brahmanwada, District Washim, was directed to carry out enquiry in respect of irregularities of the work done by Panchayat Samiti and Gram Panchayat of Brahmanwada. On enquiry, it was revealed that the applicant along with 13 others have misappropriated funds to the tune of Rs.69,85,000/- in respect of the work done

under NAREGA Scheme. It is alleged against the applicant that during the tenure of the applicant, financial irregularities have been committed in execution of as many as 100 works under Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (Scheme). It is also alleged that the works can be broadly categorized as (i) construction of toilets, (ii) soak pits, (iii) ponds, (iv) plantation and (v) desilting and ancillary works of the public water canal system. It is alleged that the *modus operandi* of the applicant and others was to disburse payments to fictitious persons as labour charges, payments to contractor for the work not executed and in certain cases, making repeated payments to the contractors for the same work.

04] Accordingly, F.I.R. came to be registered against the applicant and others. It is contended that the alleged misappropriation occurred from 01/04/2017 to 31/12/2020. It is contended that the applicant joined as Gram Sevak of Village Brahmanwada on 12/01/2018. She worked for about 8 months till 11/09/2018. The applicant handed over her charge to other Gram Sevak on 11/09/2018. It is also contended that the applicant was on leave from 17/10/2018 to 05/11/2018. Thereafter, the applicant joined the office of Panchayat Samiti Malegaon and worked there for some period, but she did not take charge of Village Brahmanwada. It is contended that the applicant was on medical leave from 27/11/2018 to 26/05/2019. The applicant had again taken leave from 01/06/2019 till 01/08/2019 for taking care of her newly born girl child. It is contended that the applicant had

submitted an application to the Collector, Washim and informed him that she is no way concern with the alleged misappropriation. She did not sign the work orders or payment receipts. It is contended that somebody forged her signature and made entries in the record. It is contended that a detailed enquiry ought to have been held by the Enquiry Officer. It is also contended that no opportunity was given to the applicant during enquiry. It is contended that the applicant is an innocent lady and she is having a three year old child. She is ready to cooperate with the prosecution agency. Hence, it is prayed that the applicant be released on pre-arrest bail.

05] Notice of this application was issued to the non-applicant/State. The learned A.P.P. has filed reply, wherein the facts narrated in the F.I.R. are reiterated. It is contended that during the course of investigation, the Investigating Officer has seized incriminating material such as bills issued by the accused and the measurement-book maintained by the Gram Panchayat. It is revealed that misappropriation has been shown towards expenses for construction of 74 toilets, 3 agricultural tanks (Shet Tale), 9 drainage Simplifications, 4 trees plantations and 15 ditch pits (Shock Khadde). It is contended that the applicant was Gram Sevak at Gram Panchayat, Brahamanwada. All the construction works were shown to have been constructed at Gram Panchayat, Brahamanwada itself. The applicant being a Gram Sevak had worked during the period of misappropriation. She has participated and facilitated the crime and thereby caused loss to the Government. It is

contended that the present applicant signed various payment vouchers and thereby made payments to the contractors and others. It is contended that the present applicant has signed the vouchers without verifying and inspecting the spot. Thus, the huge payment came to be made towards the works, which were not carried out on the spot. It is contended that since there is material against the applicant and the investigation is in crucial stage, the custodial interrogation of the applicant is required. Hence, it is prayed that the application be rejected.

06] Heard the learned Counsel for the applicant and the learned A.P.P. on behalf of the State. The applicant was working as Gram Sevak in Gram Panchayat, Brahamanwada from 13/01/2018 to 07/10/2018. It appears that during the said period, the work orders were issued. The applicant has signed the vouchers and made payments to the contractors for the work, which was not carried out. It is contended that during the tenure of the applicant, excess payment was made to the contractor for the work not done by them. It is contended that bogus signatures of the applicant were made by an unknown person and payments were made. The said fact is mentioned by the applicant in her letter to the Collector, dated 20/11/2020. The F.I.R. came to be filed on 31/12/2020. It appears that the Collector, Washim received the complaint of misappropriation of Government funds, therefore, the Collector has appointed an Enquiry Officer, who conducted a detailed enquiry and submitted his report to the Collector, Washim, wherein the nature of fraud is described. Similarly,

the said report also *prima facie* shows that in all 14 persons were responsible for the misappropriation of funds including the present applicant.

07] The learned A.P.P. has placed report of the Enquiry Officer for perusal of this Court. It appears that during the tenure of the applicant, amounts were disbursed to the contractors for the work, which was not even carried out. It was expected from the applicant to verify whether the work was completed by the contractor, but it appears that no such pains were taken by the applicant. So, it can be said that the Government fund is misappropriated because of the applicant and other office bearers of Gram Panchayat Brahamanwada and Panchayat Samiti. It is the allegation against the applicant that she made payments to some fictitious persons for the work, which was not at all carried out by the contractors. Therefore, the custodial interrogation of the applicant is essential. If the custodial interrogation is not done, then it would be difficult for the Investigating Officer to unearth the entire truth. No doubt, the applicant is a woman, but she was holding the post of Gram Sevak. It appears that she failed in her duty. Though, she has taken a defence that somebody has forged her signature, the said facts is required to be ascertained by the Investigating Officer, for which the custodial interrogation of the applicant is must. Therefore, in my opinion, the applicant is not entitled for pre-arrest bail.

08] Since, the above observations are the *prima facie* observations, the trial Court shall not be influenced upon

them while deciding the bail application, if any, placed before it by the applicant. In that view of the matter, the following order is passed :

ORDER

- i. The application is rejected.

**sandes*

JUDGE