

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 96 OF 2023

Angad Vilas Agale ...Applicant

Versus

The State of Maharashtra & Anr ...Respondents

WITH
ANTICIPATORY BAIL APPLICATION NO. 262 OF 2023

Ashok Kondia Mundhe ...Applicant

Versus

The State of Maharashtra & Anr ...Respondents

Mr. M. V. Salunke, Advocate for the Applicant in
ABA/96/2023.

Mr. s. s. Wakune, Advocate for the Applicant in
ABA/262/2023.

Mr. V. S. Badakh, APP for Respondent – State.

CORAM : R.M. JOSHI, J.

RESERVED ON : JULY 06, 2023
PRONOUNCED ON : JULY 14, 2023

ORDER

1. Applicants apprehend arrest in connection with
Crime No. 369 of 2022 registered with Anandnagar Police
Station, Dist. Osmanabad for the offences punishable
under Sections 420, 406, 409, 465, 467, 468, 470, 471,
477 and 34 of the Indian Penal Code.

2. Applicant - Angad is Gramsevak of Grampahcyat Khed, Dist. Osmanabad whereas Applicant - Ashok is Gramrojgar Sevak of Pawarwadi. Perusal of the FIR shows that misappropriation was found by the CEO, Z.P., Osmanabad in the construction of Panand Road at Pawarwadi, Dist. Osmanabad under Maharashtra Gramin Rozgar Hami Yojana. An enquiry was conducted by the committed headed by Tehsildar and report dated 19.12.2022 came to be submitted in which it was found that in the said work misappropriation of Rs. 30,98,092/- is done. It is also stated therein that for the said misappropriation number of officers including present Applicants are responsible. It is alleged that without doing work, completion was certified and that without engaging labours they are shown on the muster roll and thereby huge amount is misappropriated. .

3. Learned Counsels for the Applicants states that Applicants are not persons who have authority to approve the bills and certify completion of work. It is also submitted that the co-accused are enlarged on bail and hence, present Applicants also are entitled to get bail on parity.

4. Learned APP opposed the applications by stating that present Applicants were responsible for preparation of muster roll and certification of the actual work done and their direct involvement in the crime is seen. It is also contended that there are statements of witnesses and bank records to show that money is transferred into account of persons who never worked at site and from them it was taken back.

5. There is report of the Tehsildar which indicates that the construction work of the road was not completed and in spite of the same, bills were prepared and sanctioned. It is pertinent to note that present Applicants are Gramsevvak and Gramrojgar Sevak, who had responsibility to mark presence of the labour who actually work on the site as well as to certify the actual work done. Thus, act of preparation of the muster roll and certification of work can certainly be attributed to these Applicants. Both Applicants, therefore, *prima facie* seems to have committed illegality. The material placed on record and statements of witnesses further indicate that the amount was transferred in the accounts of persons who

actually never worked as labourers in the construction of the said road. There is report on record to indicate that work is not completed. The higher officers or other persons working in the Tehsil office though can be said to be responsible for the final approval of the bills, but it was not expected from them to visit the site and ascertain the actual completion of work. The certification of completion of work and preparation of muster roll of labourers done by present Applicants has resulted into passing of the final bills. Applicant, therefore, cannot seek parity with the co-accused who are enlarged on anticipatory bail considering different roles. The involvement of the Applicants *prima facie* seen in this crime. Their custodial interrogation is necessary in order to ascertain as to how the persons who never worked on the site were paid money by transferring the same into their account as well as the benefits derived by the Applicants therefrom.

6. In view of above, Applications stand dismissed.

(R.M. JOSHI, J.)

Malani