

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

ANTICIPATORY BAIL APPLICATION NO. 445 OF 2023

Niteen Dagadu Kale @ Nitin Kale

VERSUS

1. The State of Maharashtra
2. Superintendent of Police, Aurangabad Rural

Mr. I. D. Narode & Mr. P. M. Salunke, Advocate for the applicant
Mr. S. N. Morampalle, APP for the respondent/State

**WITH
ANTICIPATORY BAIL APPLICATION NO. 446 OF 2023
WITH CRIMINAL APPLICATION NO. 1584 OF 2023**

Sundar Panditrao Mangdare

VERSUS

The State of Maharashtra

Mr. A. K. Bhosle, Advocate for the applicant
Mr. S. N. Morampalle, APP for the respondent/State
Mr. P. M. Nagargoje, Advocate for the informant

**WITH
ANTICIPATORY BAIL APPLICATION NO.438 OF 2023**

Lalitbhai Fattubhai Sayyad

VERSUS

The State of Maharashtra

Mr. J. A. Menezes, Advocate for the applicant
Mr. S. N. Morampalle, APP for the respondent/State

**WITH
ANTICIPATORY BAIL APPLICATION NO. 427 OF 2023**

1. Uttam s/o Baburao Bacchav
2. Latifbhai s/o Fattbhai Sayyad

VERSUS

The State of Maharashtra

Mr. J. A. Menezes, Advocate for the applicants
Mr. S. N. Morampalle, APP for the respondent/State

**WITH
ANTICIPATORY BAIL APPLICATION NO. 455 OF 2023**

1. Shivaji Raosaheb Dahiwal
2. Asaram Amrut Rathod

VERSUS

The State of Maharashtra

Mr. J. A. Menezes, Advocate for the applicants
Mr. S. N. Morampalle, APP for the respondent/State

**WITH
ANTICIPATORY BAIL APPLICATION NO. 428 OF 2023**

1. Uttam s/o Baburao Bacchav
2. Latifbhai s/o Fattbhai Sayyad

VERSUS

The State of Maharashtra

Mr. J. A. Menezes, Advocate for the applicants
Mr. S. N. Morampalle, APP for the respondent/State

**WITH
ANTICIPATORY BAIL APPLICATION NO. 451 OF 2023**

Manoj Tryambak Kumawat @ Manoj Kumavat

VERSUS

1. The State of Maharashtra
2. Superintendent of Police, Aurangabad Rural

Mr. I. D. Narode & Mr. P. M. Salunke, Advocate for the applicant
Mr. S. N. Morampalle, APP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 31st JULY, 2023

P.C. :-

1. Applicants apprehend in connection with Crime No. 24 of 2023 registered with Ajintha Police Station, District Aurangabad, Crime No. 28 of 2023 registered with Sillod Police Station, Dist. Aurangabad and Crime No. 380 of 2022 registered with Phulambri Police Station, Tal. Phulambri, Dist. Aurangabad for the offences punishable under Sections 120(B), 378, 379, 405, 406, 409, 420, 465, 468, 471 of Indian Penal Code.

2. These three first information reports show that with the allegations informant that the Forest Officers, foresters, forest guards and contractors in collusion with each other committed offence. There is allegation that the forester prepared false passes for the transportation

of goods from the forest. There is also allegation against the forest guard and forester of taking wrong measurements of the wood and preparing bogus panchnama without mentioning the date thereon. The allegation against the contractor is of collusion with the officers of forest department. On these allegations present applicants two range forest officers, one forester, one forest guard and contractor are apprehending arrest.

3. Learned counsel for the range forest officers submits that in respect of the allegations made in the first information report departmental inquiry was conducted and as far as one of the range forest officer is concerned, it is held in the said inquiry that though irregularities are committed, no misappropriation was found to have been done by him. As far as the forest guard and forester is concerned, it is contended that two allegations are there with regard to the measurement of the wood and not preparation of bogus panchnama. Reference is made to the findings of the departmental inquiry wherein it is candidly held that there is no substance in the said allegation. The learned counsel for the contractor submits that the allegation against the accused are motivated as there was offence registered against the informant at the instance of one of the contractors under the provisions of Prevention of Corruption Act. Attention of the Court is also drawn the order passed by this Court

in Anticipatory Bail Application No. 1698 of 2022 wherein a forester against whom allegation was there of preparation of bogus passes was granted anticipatory bail. It is also pointed out that no offence could have been registered against the officers and employees of the forest department for want of sanctions. In this regard the reference is made to the proviso to Section 156(3) of Cr.P.C. According to them the act alleged against the these applicants are in purported discharge of their official duties and hence for want of sanction the first information report could not have been lodged. To support the said submissions reliance is placed on the judgment of this Court in case of ***Manoj Genu Sandhan Versus The State of Maharashtra*** reported in ***2022(5) Mh.L.J. (Cri.) 573***.

4. Learned APP and learned counsel for the informant opposed the said application by contending that the allegation in the first information report are candid which show involvement of the present applicants in the misappropriation by creating false record.

5. Perusal of the first information reports indicates that the present informant has lodged number of reports with different police station making various allegations against the forest officers, employees and contractors of misappropriation of the funds and causing loss to the State in collusion with each other. Perusal of the order dated 27th

February, 2023 passed in ABA No. 1698 of 2022 in Crime No. 380 of 2022 registered with Phulambri Police Station, District Aurangabad shows that the applicant who was Forester and against whom the allegation of the issuance of passes to fictitious vehicles was made was granted anticipatory bail. There is no dispute about the fact that the said order of bail has not been challenged by the prosecution. As far as the allegation against the Forest Guard and Forester in the present application, there is no allegation against them of preparing any bogus passes but the allegation pertain to the preparation of bogus panchnama. In this regard prima facie there is material placed on record in the form of report of the departmental inquiry which indicates that there is no substance in the said allegation. There cannot be doubt about the fact that there is absolutely no allegation against the Range Forest Officers of preparing any panchnama or passes as alleged against other employees. As far as the contractor is concerned, there could be reason to lodge report against him owing to the crime registered against the informant under the P.C. Act by one of the contractor.

6. Assuming that the allegations made in the present first information reports are true however perusal of the said reports clearly indicates that the alleged acts of the Range Forest Officer and other employees of the Forest Department are purported to have been done in

the discharge of their official duties. Hence there could not have been any first information report registered against them in view of proviso to Section 156(3) of Cr.P.C. i.e. Maharashtra Amendment 2005, without obtaining sanction from the Competent Authority. The judgment of this Court in case of **Manoj Genu Sandhan** (cited supra) squarely applies to the present case. Having regard to these facts, present applications are allowed in terms of interim orders.

(R. M. JOSHI, J.)

ssp