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

BAIL APPLICATION NO.794 OF 2023

**ANIL GANPAT PARDHI
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Harshal Prakash Randhir
APP for Respondent/State : Mr. S.B. Narwade
...

CORAM : S.G. MEHARE, J.

DATED : JULY 03, 2023

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant is seeking bail in Crime No.72 of 2022 registered with Bodwad Police Station, District Jalgaon for the offence punishable under Section 420, 419, 409, 467, 468, 469, 471 r/w 34 of the Indian Penal Code.
3. The applicant was the then Village Sarpanch of the village. It has been alleged against him that in collusion with the Gram Sevak, he did the fraud and misappropriated a huge amount out of 14th Finance Commission. The fake bills were prepared without doing work. Huge amount of Rs.10,51,000/- has been misappropriated. The applicant was arrested and since then he is languishing in jail.

4. Learned counsel for the applicant would submit that nothing is to be recovered from the applicant. Absconding of the co-accused is no ground to refuse the bail. The applicant is ready to co-operate with the investigation. If any amount is to be recovered in such cases, the Chief Executive Officer may exercise his powers under Section 140(5) of Maharashtra Village Panchayat Act. Therefore for recovery also he cannot be detained.

5. Per contra, learned APP would submit that the applicant was consciously involved in committing the fraud and misappropriating the public fund. Unless he was the signatory to the withdrawal slips, the amount could not be withdrawn. The applicant is equally responsible for committing the fraud and misappropriating the public fund. That apart, he with the co-accused has withdrawn the amount without completing or doing the work for which the amount was allegedly shown spent. The co-accused is still absconding. Hence, he may not be granted bail.

6. Recent view of the Hon'ble Supreme Court is that absconding of the co-accused is no ground to refuse the bail. As far as recovery of the money, if any, misappropriated, the Chief Executive Officer, Zilla Parishad has power to recover the amount of misappropriation under Section 140(5) of Maharashtra Village Panchayat Act. The offence appears based upon the papers. The relevant material has been recovered from the applicant. The co-

accused who was the Gram Sevak was the custodian of the papers. He is absconding. For that purpose, the applicant could not be detained. Considering the progress in the trial and the law on the bail as discussed above, the detention of the applicant would serve no purpose. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Anil Ganpat Pardhi, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) with one solvent surety in the like amount in connection with the above crime, on the conditions that he shall not tamper with the prosecution witnesses.
- (iii) The applicant shall attend the trial on each effective date.
- (iv) The applicant shall co-operate with the investigation and attend the concerned police station, if called anytime.

(S.G. MEHARE, J.)