

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1874 OF 2023
IN ABA/759/2023

Bhushan Kirtikumar Padvi ...Applicant

Versus

Ushabi Pravin Bora & Anr ...Respondents

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Mr. D. S. Bagul, Advocate for the Applicant.

Mr. N. L. Chaudhari, Advocate for the Respondent No. 1.

Mr. V. S. Badakh, APP, for the Respondent No. 2.

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CORAM : R.M. JOSHI, J

DATE : SEPTEMBER 04, 2023

PER COURT :

1. This application is filed to assist APP in connection with Crime No. 131/2023 registered with Akkalkuwa Police Station, Nandurbar for the offences punishable under Sections 420, 409 read with Section 34 of the Indian Penal Code.

2. Applicant is the person at whose instance the present crime is registered. It is the contention of the Applicant that since 2016 onwards the audit of concerned Grampanchayat was conducted, however, in spite of knowledge of misappropriation committed by the

officer bearers of the Grampahayat as well as the Government employees, no offence came to be registered by concerned CEO in spite of repeated requests to the Authority. Consequently Writ Petition No. 2200 of 2023 was filed seeking appropriate direction for taking cognizance of misappropriation. Pursuant to the orders passed by Division Bench of this Court in the said proceedings the above FIR was registered.

3. Learned Counsel for the Applicant submits that accused against whom there is allegation of commission of misappropriation to the tune of Rs. 3.5 crores are either politically influential persons or are higher Government Officials in Taluka. CEO has failed to take cognizance of the alleged misappropriation and has avoided to register crime against them. It is his submission that unless Petition was filed by the Applicant, there was no possibility of any offence being registered against concerned. He submits that not only that the Applicant was required to file Petition in order to ensure that the offence is registered but had to pursue it as in spite of orders in reasonable time offence was not registered. In order to support

the said contentions, reference is made to various orders passed in Criminal Writ Petition No. 2200/2023. According to him, complainant who is CEO has failed to take steps in order to bring accused to the books and hence, it would be just and necessary for the Applicant to allowed to assist APP in the interest of public at large.

4. Learned Counsel for the Accused/Original Applicant in ABA/7592023, at the outset, opposed the said application by contending that the prayer made by the Applicant is not supported by any provision of law as no third party can be permitted to join criminal proceedings. It is his contention that Applicant is not victim or informant of crime and hence, cannot be allowed to participate in the pre-arrest bail proceeding.

5. There is no dispute about the fact that informant or victim would have right to intervene in any application connected with crime in question. As far as present case is concerned, there is reason to believe from material evidence on record that had informant not taken steps for lodging of report, there

could not have been any report by informant. There is no dispute about the fact that the FIR could see light of the day only after perseverance of the Applicant. Herein this case, the Applicant is not totally alien to the proceedings. Though technically he is not informant of the crime but practically he is instrumental thereto.

6. In the peculiar facts and circumstances of the case and since the Applicant has direct concern with the registration of crime, he could be treated as deemed informant and hence, must get an opportunity to assist APP. Hence, Application is allowed.

(R.M. JOSHI, J.)

Malani