

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 927 OF 2023

Asadullah Mohammad Inayatullah ...Applicant

Versus

The State of Maharashtra ...Respondents

WITH

ANTICIPATORY BAIL APPLICATION NO. 393 OF 2023

Kanis Fatema W/o Mohammed Masood
Saudagar ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 353 OF 2023

Gangadhar Chimaji Jadhav ...Applicant

Versus

The Superintendent of Police, Nanded
and Anr ...Respondents

Mr. A. N. Patale, Advocate for the Applicant in
ABA/927/2023.

Mr. A. B. Shinde, Advocate for the Applicant in
ABA/353/2023

Mr. S. S. Pidgeward, Advocate for the Applicant in ABA/
393/2023

Mr. G. O. Watamwar, APP for Respondents – State.

CORAM : R.M. JOSHI, J.

RESERVED ON : JULY 05, 2023
PRONOUNCED ON : JULY 11, 2023

ORDER

1. Applicants apprehend arrest in connection with Crime No. 443 of 2022 registered with Vazirabad Police Station, Dist. Nanded for the offences punishable under Sections 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code.

2. FIR shows that there is allegation against present Applicants and co-accused that they prepared bogus record of gunthewari certificate and by using bogus outward number, the said certificates were issued. It is claimed that there is financial loss caused to the exchequer of the Municipal Council.

3. Applicant in ABA No. 353 of 2023 is in-charge clerk in the Gunthewari Department of Municipal Council, whereas Applicants in other applications are the owners of the land in respect of which the gunthewari certificates were issued.

4. Learned Counsel for the Applicants for owners of land contended that they have no concern with the crime in question as they had submitted proposal through registered civil engineers who are co-accused

in this crime. It is contended that the said engineers were expected to get the work done of issuance of gunthewari certificate to the Applicants. It is also pointed out that the civil engineers are enlarged on anticipatory bail.

5. As far as the Applicant in ABA/353/2023 is concerned, it is submitted that since the Applicant was having charge of outward register only, the alleged inclusion of the bogus outward numbers in the certificate has nothing to do the work performed by the Applicants. Learned Counsels for Applicants submitted that Applicants were protected by interim order and that the custodial interrogation of the Applicants is not necessary.

6. Learned APP opposed the applications by pointing out that the owners of the land were required to pay fees for the purpose of issuance of gunthewari certificate and that while filing of the same bogus receipts are placed on record. It is also submitted that there is loss caused to the exchequer of the Municipal Council.

7. Material on record indicates that the Applicants, who are owners of the land, did not directly apply to the Municipal Council but the application for issuance of gunthewari certificate was made through licensed civil engineers. There is substance in the contention of Counsels for this Applicant that they could be completely ignorant of the said procedure and they cannot be held responsible for the alleged crime. It can be seen from the record that one of the engineers is granted anticipatory bail by learned Additional Sessions Judge, which order was not challenged by the investigating officer from last six months. On the basis of said fact and applying parity the anticipatory bail of similarly placed co-accused came to be allowed. In such circumstances, there is no propriety in denying the liberty of the present Applicants.

8. As far as the employee of the Municipal Council is concerned, there is no allegation in the FIR that the record of the Municipal Council was tampered with by him. The allegation that the certificates in question record bogus outward numbers which cannot be

attributed to this Applicant. With regard to the financial loss, it is always open for the local body to recover the same from persons liable to make it good. It needs to be recorded that in spite of granting interim protection to the Applicants, Applicants were not called by the investigating officer for further investigation which makes it clear that the investigating agency does not desire to interrogate the Applicants by taking their custody.

9. In view of the above, applications are allowed by confirming order dated 26.06.2023 & 29.03.2023 respectively.

(R.M. JOSHI, J.)

Malani