

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1305 OF 2023

Dhanshri w/o Arjun Karnor Applicant

Versus

The Superintendent of Police
& another Respondents

Mr. R. R. Karpe, Advocate for the applicant.
Mrs. G. L. Deshpande, APP for the State.

WITH
ANTICIPATORY BAIL APPLICATION NO. 1177 OF 2023

Aatish Dadasaheb Akhade Applicant

Versus

The State of Maharashtra Respondents

Mrs. S. G. Sonawane, Advocate for the applicant.
Mrs. G. L. Deshpande, APP for the State.

CORAM : R. M. JOSHI, J.
DATE : 15th SEPTEMBER, 2023

ORDER

1. Applicants Dhanashri and Aatish, Sarpanch and Gram Sewak respectively of village Bhawadi, Tq. Shrigonda, Dist. Ahmednagar are apprehending arrest in connection with Crime No.

0536/2023 registered with Shrigonda Police Station, Tq. Shrigonda, Dist. Ahmednagar for the offences punishable under Sections 420, 409 read with Section 34 of Indian Penal Code.

2. Extension Officer of Panchayat Samiti Shrigonda lodged report with police by alleging that applicant Aatish, Gram Sewak, is rendering his services on the said post since 3rd June, 2022, who has been suspended by Block Development Officer by order 22nd May, 2023. It is alleged against him that he has committed mis-appropriation of funds of Gram Panchayat. In this regard, show cause notice was issued to him on 29th March, 2023 alleging that he has failed to supply information regarding tender of development work, valuation, completion certificate etc. It is alleged that in the inquiry, it was revealed that there is mis-appropriation of funds to the tune of Rs. 21,23,352/-.

3. Learned counsel for applicant in Anticipatory Bail Application No. 1305/2023 submitted that perusal of First Information Report does not show any allegation of act of commission of mis-appropriation against her. It is submitted that applicant has no concern with the alleged mis-appropriation and allegations are

specifically made against the Gram Sewak who had withdrawn the amount. It is submitted that in any case, since the amount withdrawn by Gram Sewak has already been deposited with the concerned office, nothing is to be recovered in this crime. Thus, pre-arrest bail is sought on the ground that the applicant is lady and that her custodial interrogation is not necessary.

4. Learned counsel for applicant in Anticipatory Bail Application No. 1177/2023 submitted that the First Information Report has been lodged against him owing to the internal disputes. It is sought to be argued that the amount alleged to have been withdrawn by this applicant is already deposited and as such, the issue of custodial interrogation is not involved in this case.

5. Learned APP opposed the applications with contention that prima facie there is material on record to show that the amounts of Rs. 1,99,500/-, 49,500/- and 49,500/- have been withdrawn by the Gram Sewak. Thus, according to her, there is more than sufficient evidence to show that it is a case of mis-appropriation. It is submitted that apart from the said withdrawal, the amounts are spent without there being any evidence showing completion work,

cash book etc. It is submitted that 15th Finance Commission grants are mis-appropriated and hence, it is not a case for anticipatory bail.

6. For the purpose of deciding anticipatory bail application, seriousness of offence, involvement of public money and prima facie evidence against the applicant would be relevant factors. Prima facie perusal of the record indicates that the sum of Rs. 2,98,500/- was withdrawn by the Gram Sewak. There is no dispute about the fact that the cheque on the basis of which the said withdrawal is done is signed by the Sarpanch. Thus, there is more than sufficient evidence on record to show involvement of both applicants in the crime. Merely because certain amount is deposited by the Gram Sewak will not entitle the applicants to seek pre-arrest bail. It is pertinent to note that number of transactions are pointed out indicating withdrawal of the amount as "self". There is also allegation that in respect of Gram Nidhi as well as grants received from 14th and 15th Finance Commission, number of transactions are shown which are not supported by cash book or the file in respect of the same. Thus, there is enough material on record to indicate that it is a case of mis-appropriation of public funds. It cannot be denied that Sarpanch as well as Gram Sewak are responsible for spending the said amount.

Merely because one of the applicants is lady, she cannot be granted anticipatory bail when there is sufficient evidence on record to show her involvement in the crime. This Court finds substance in the contention of learned APP that for the purpose of recovery of misappropriated amount so also for obtaining record in respect of those transactions, custodial interrogation of applicants is necessary.

7. In view of above both the applications are rejected.

(R. M. JOSHI)
Judge

dwb