



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

BAIL APPLICATION NO.2101 OF 2023

**VINOD KESHAVRAO KHANDARE
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. G.G. Kadam
APP for Respondent : Mr. A.S. Shinde

...

AND

BAIL APPLICATION NO. 2094 OF 2023

**GAJENDRA S/O HIRALAL RAJPUT
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. R.N. Dhorde Sr. Counsel i/b Mr.
VR. Dhorde

APP for Respondent : Mr. A.S. Shinde
Advocate for Assist to APP : Mr. D.S. Bagul

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**CORAM : S. G. CHAPALGAONKAR, J.
Dated : December 07, 2023**

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ORDER :-

1. The applicants in both these bail applications seek regular bail in connection with crime no.403 of 2023 registered with police station Bhagyanagar, Nanded, District Nanded for the offences punishable u/s 7 and 12 of the Prevention of Corruption Act, 1988 (for short PC Act).

2. The investigation was set in motion on the basis of information given by Mr. Dadarao Dhage, who alleges that he

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is a contractor and running a firm namely Omkar construction. He had filled a Tender for construction of roads in Taluka Hadgaon, District Nanded. He was found to be the successful bidder. However, Tenders were laying at the stage of recommendation in the office of Superintending Engineer PWD, Nanded. Accordingly, on 30.10.2023 informant contacted with the applicant Superintending Engineer, who demanded half percent of tender amount for making favorable recommendation to the office of the Chief Engineer. The another applicant/accused working as Senior Clerk in the Tender Department demanded bribe of Rs.50,000/- for the section. Since, first informant was not willing to satisfy the demand of bribe, he approached Anti Corruption Department, at Nanded. Accordingly, trap was arranged. Demand was recorded in a voice recorder used for that purpose. In pursuance of the demand, second accused i.e. senior clerk apprehended red handed with bribe amount of Rs.6,40,000/-, which has been recovered from the informant. Apart from that, huge amount of Rs.48,59,900/- recovered from his table rack. Accordingly, crime no.403 of 2023 came to be registered against the applicant/accused for the offence punishable u/s 12 and 7 of the PC Act. The applicants have been arrested on 2.11.2023. They were remanded to police custody from 2.11.2023 till 7.11.2023. Since then, they are in the MCR. The applicants moved respective bail applications for grant of bail before the Special Court, which came to be rejected vide order dated 10.11.2023. Hence, these applications.

3. Mr. Dhorde, learned senior counsel and Mr. Kadam, learned advocate appearing for respective applicants contend that the applicants have been falsely implicated in the aforesaid crime on account of political reasons. Mr. Dhorde, learned senior counsel would submit that applicant Gajendra Rajput (in bail application no.2094 of 2023) is serving as a Superintending Engineer. He had already recommended tenders of the informant. The final decision was pending with the office of the Chief Engineer. Neither there was demand of any bribe as alleged nor had applicant accepted the amount. The applicant was remanded to police custody for five days. Necessary evidence has been already collected. The applicant is behind the bar for more than five weeks. Further detention of the applicants would not be necessary. Hence, he urges to release the applicants on bail.

4. Mr. Kadam learned counsel appearing for the applicant in BA No.2101 of 2023 adopts the arguments advanced on behalf of the learned senior counsel and also submit that the applicant has been falsely implicated in the aforesaid crime.

5. Mr. Bagul, learned advocate appearing for the first informant and Mr. Shinde, learned APP appearing for the respondent-state vehemently opposed the prayer for grant of bail contending that, prima facie, there is sufficient evidence to indicate demand and acceptance of bribe by the accused persons. The applicant Gajendra Rajput, after negotiations, demanded bribe of rupees six Lakhs. Conversation is recorded

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in the recorder. The another accused Vinod Khandare, who is senior clerk working in the office of Superintending Engineer accepted cash amount of Rs.6,40,000/- by way of bribe. He is apprehended red handed alongwith cash. Apart from the bribe received from the first informant, huge cash amount has been recovered from the cupboard/rack of accused Vinod Khandare. Further, during search of official residence of accused Gajendra Rajput, cash amount of Rs.24,31,590/- has been seized. Investigation in respect of aforesaid amount is still in progress. The applicants may intimidate witnesses and destroy the evidence. Therefore, they urges to reject the applications.

6. Having considered the submissions advanced, apparently, case of the prosecution is based on the trap laid through the Anti Corruption Department. Accused Vinod Khandare alleged to have red handed apprehended with bribe amount of Rs.6,40,000/- including amount of Rs 6.00 Lakhs demanded by the accused Gajendra Raut. Apart from that recovery of sizable sum has been alleged from them. The applicants were arrested on 2.11.2023 and remanded to police custody till 7.11.2023. Since then, they are in the MCR. Prima facie, it is revealed that cash amount of Rs.6,40,000/- is allegedly received by accused Vinod Khandare for himself and on behalf of accused Gajendra Rajput. In addition sizable cash is seized from the rack of accused Vinod Khandare from official residence of accused Gajendra Rajput. Although, prima facie case has been made out against the applicants, whether in the facts of the case, further detention of the applicants is

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necessary would be the question for consideration before this Court.

7. Both the applicants are the Government Servants and deeply rooted in the society. Case of the prosecution is based on the trap arranged through ACB department. Requisite evidence is already possessed by the prosecution. The offences alleged to be under section 7 and 12 of the PC Act are punishable with imprisonment up to seven years. Prima facie, there is nothing to indicate that the applicants would flee away from process of law or there is likelihood of tampering of the evidence.

8. It is submitted that since huge cash amount has been seized from the applicants, the investigation regarding disproportionate assets is going on. However, it is not pointed out as to how release of the applicants would bring hurdles in such investigation. In that view of the matter, when the applicants are behind bar for more than five weeks after remand to MCR, there is no reason to continue their detention any more. Hence, the case is made out for grant of bail subject to certain conditions. Hence, following order.

O R D E R

- i. Bail application no.2101 of 2023 and 2094 of 2023 are hereby allowed.
- ii. The applicant Vinod Keshavrao Khandare in BA No 2101 of 2023 and the applicant Gajendra s/o Hiralal Rajput in BA no.2094 of 2023 be released on bail in connection with crime no.403 of 2023

registered with police station Bhagyanagar, Nanded, District Nanded for the offences punishable u/s 7 and 12 of the Prevention of Corruption Act, 1988 on their furnishing PB and SB for Rs.1,00,000/- (Rs. One Lakh) with one or more solvent.. sureties in the like amount by each of them on the following conditions :-

- a] The applicants in both bail applications shall not tamper with the prosecution evidence in any manner.
- b] The applicants in both bail applications shall cooperate with the investigation and shall report the investigating agency on every **Tuesday and Friday between 10 am to 2 pm** till filing of the charge-sheet or for a period of three months from the date of their release.
- c] After end of the period of three months, the applicants in both bail applications shall report office of Investigating Agency once in a week i.e. on every **Saturday between 10 am to 12 noon** for a further period of three months.
- d] The applicants in both bail applications shall not leave the State of Maharashtra without specific intimation and submission of itenary to the competent Court, who shall, after considering the reasons for travel, grant such permission during pendency of trial till filing of the charge-sheet.
- e] The applicants in both bail applications shall surrender their Passport to the trial court, if any.
- f] The applicants in both bail applications shall not directly or indirectly intimidate, induce, threat to any person acquainted with the facts of the case so

as to deceive him from disclosing the facts to the Court or any police officer.

- g] In case of filing of the charge-sheet, applicants in both bail applications shall cooperate for the expeditious disposal of the trial.
 - h] The applicants in both bail applications shall furnish their permanent residential address, contact numbers with the Investigating Agency and update the same in case of change.
- iii. Bail applications are accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

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