

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3279 OF 2023

1. Aniket Ravikant Wayale ...Applicants

2. Priyanka Ramesh Palvi

Versus

The State Of Maharashtra ...Respondent

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Mr. Mohammed Umar Kazi a/w Mr. Abdul Wahab Shaikh, Advocate
for Applicant.

Mr. S.V. Gavand, APP for Respondent/State.

CORAM : M.M. SATHAYE, J.

DATED : 16th NOVEMBER, 2023

(VACATION COURT)

PC. :

1. This is an Application for anticipatory bail filed by Applicants / Accused No. 6 and 7 in connection with C.R. No. 593 of 2023 dated 01.10.2023 registered with Kalyan Police Station (Thane Gramin) for offences punishable u/s. 409, 420 read with Section 34 of Indian Penal Code.

2. The Anticipatory Bail Application No. 1843/2023 of the

Applicants made before the Additional Sessions Judge, Kalyan Court is already rejected on 02.11.2023.

3. Heard learned counsel for the Applicants and learned APP for the State/Respondent. Perused the Order dated 02.11.2023.

4. Perusal of the FIR shows that it is the allegation of the Complainant Mr. Manishkumar Bagalrao Herlekar (Junior Engineer with with concerned Zilla Parishad Panchayat Samita Kalyan) that during execution of construction work of Gutter and laying of paver-blocks in village Mharal, Tq. Kalyan, the work was awarded to the present Applicants as contractors, under a special scheme for educated un-employed engineers. It is the allegation that during execution of the said work, without completion of the work. It is alleged that the Applicants have been paid from public money and there has been embezzlement of the public funds by other accused who are Government Officers (Zilla Parishad Employees) in connivance with the Applicants.

5. Learned Counsel for the Applicants submitted that the Applicants were only contractors and had carried out work. He submitted that in the peculiar facts of this case, when the concerned work was already completed in the year around 2016 and FIR is filed in October 2023, and ultimately the recovery proceedings for the allegedly misappropriated amounts are initiated, the Applicants are ready to deposit the amounts which are allegedly received by them from the embezzled public money, without prejudice and under protest in this Court. He submitted that in such a situation, no

custodial interrogation is required and therefore the Applicants be granted anticipatory bail.

6. On the other hand learned APP has strongly opposed grant of any relief in favour of the Applicants. He submitted that the Applicants were well aware that they have not completed the work allotted to them, however by acting hand-in-glove with the other accused, who are Government officials, huge amounts of public money have been misappropriated. He further submitted that under the Order of this Hon'ble Court dt. 23.08.2023 passed in PIL No. 116 of 2019, the present FIR has been filed and investigation has taken place. He submitted that in the facts and circumstances of this case, where there is apparent misappropriation of the public money, no indulgence be shown to the Applicants such as relief in the nature of anticipatory bail.

7. I am afraid this the arguments of the Applicants cannot be accepted. It is apparent from the facts narrated above that pursuant to this Court's order passed in PIL No. 116 of 2019, the present FIR is filed and investigation is going on. When embezzlement of public money is involved, it cannot be said at this stage, that custodial interrogation will not be required at all. Even otherwise, this Court is of the clear view that when public money is misappropriated or embezzled in the execution of the contracts for public works, it is not possible without all the parties, including Government officers and the contractors working together.

8. In that view of the matter, this Court does not find it a

fit case to show any indulgence to the Applicants. The Anticipatory Bail Application is therefore rejected.

9. All concerned to act on authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)