

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3259 OF 2023

Bharat Nana Ghanghav ...Applicant
vs.
The State of Maharashtra ...Respondent

Ms. Sonal Parab a/w. Mr. Shirish Sawant, Mr. Jairaj Sawant and Mr. Aashish Choure i/b. Rajeev Sawant & Associates, for the Applicant.
Mr. S.H. Yadav, APP for the Respondent/State.
Mr. Vikas Jawhare, HC, EOW, Thane.

CORAM : N. J. JAMADAR, J.
DATE : DECEMBER 5, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 213 of 2023 registered at Shahpur police station for the offences punishable under sections 409, 420, 464, 468 of Indian penal Code, 1860.
3. The applicant was the Secretary of the Adivasi Vividh Karyakari Co-Operative Society, entrusted with procurement of Paddy. The indictment against the applicant is that the applicant and the co-accused who were the officers/officials of the Marketing Federation had, in pursuance of a conspiracy, prepared false and forged documents to show the purchase of 3304 quintal paddy at Khardi paddy procurement centre and thereby defrauded the

Marketing Federation of the sum of Rs.56,86,192/-. Likewise, the applicant and the co-accused had shown that 1425.80 quintal paddy was processed to 955.25 quintal rice and thereby defrauded the Marketing federation and the State Government of Rs.93,41,355 in the aggregate. It is alleged that a Three Member Committee had conducted an enquiry and submitted a report on 15th June, 2023. On the basis of the said report, FIR came to be lodged.

4. The learned Counsel for the applicant submitted that in the month of March, 2022 an enquiry was conducted by Five Members Panel presided over by the General Manager (Administration) Enquiry Officer. In the said enquiry, the allegations of preparation of false documents and non-procurement of the paddy were found to be incorrect. Therefore, the applicant deserves the exercise of discretion.

5. The learned counsel for the applicant further submitted that as the applicant was arraigned in C.R. No. 58 of 2019 registered at Vasind police station for the offences punishable under sections 409 and 420 of the Code with identical allegations, the applicant was specifically kept away from the procurement of Paddy. The applicant has thus been roped in only for being the Secretary of the said society, though he had no role in the alleged offences. Attention of the Court was invited to the orders passed in the bail application

taken out by the applicant in connection with C.R. No. 58 of 2019.

6. The learned APP stoutly resisted the prayer for pre-arrest bail. It was submitted that as the earlier inquiry was not found to be proper, a fresh inquiry was instituted, in which the complicity of the applicant and the co-accused has been revealed. The learned APP submitted that the antecedents of the applicant also dis-entitle the applicant from the relief of pre-arrest bail as the applicant was arraigned in C.R. No. 58 of 2019 in identical offences. The learned APP further submitted that this Court has already rejected the application of Gokul Rathod, another office bearer of the society and the reasons which weighed with this Court in rejecting the said application apply with equal force to the instant case.

7. In ABA No. 3167 of 2023 while rejecting the application of the co-accused this Court had observed, inter alia, as under:-

6] The situation which thus obtains is that, at this stage, there are two enquiry reports. However, in the enquiry report dated 15th June, 2023, the enquiry committee has recorded the mode and manner of the alleged fraud with necessary particulars. The persons from whom the paddy was shown to have been purchased were either found to have no agricultural land in the concerned village or they had no paddy crop. The enquiry committee has also adverted to the other acts of malfeasance in showing the transportation of the paddy from the procurement centre to the concerned rice-mill, by furnishing numbers of vehicles, which were found to be in fact two-wheelers. Entry of procurement of paddy weighing 5633 quintal was deleted on the NeML Portal on 6th April, 2021 without any reason, though the said paddy was purchased on 31st March, 2021. Prima facie, there is material to indicate a large-scale fraud in the

procurement of paddy.

7] Custodial interrogation of the applicant is warranted for an effective and complete investigation to unearth the fraud in all its facets, to unmask the identity of the person privy to the fraud and also have a money trail.

8. The submission on behalf of the applicant that though the applicant was the Secretary of the society, he had no role in the procurement, in the face of the material on record, especially the inquiry report which clearly indicts the applicant, does not merit acceptance, at this stage.

9. I find substance in the submission of the learned APP that the fact that the applicant had been arraigned for similar offences in C.R. No. 58 of 2019 registered with Vasind police station and yet the applicant had indulged in identical activity, dis-entitles the applicant from exercise of discretion.

10. I am, therefore, not persuaded to exercise the discretion in favour of the applicant.

Hence, the following order:-

ORDER

I) The application stands rejected.

II) It is clarified that these prima facie observations are confined to determine the entitlement to pre-arrest bail only.

(N. J. JAMADAR, J.)