

Sayali Upasani

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

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SUBHASH
KULKARNI

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ANTICIPATORY BAIL APPLICATION NO. 3506 OF 2023

Asha Ramesh Pathare and Others ...Applicants

Vs.

The State of Maharashtra ...Respondent

Mr. Kuldeep Patil i/b Ms. Saili Naresh Dhure, for Applicants.

Smt. A. A. Takalkar, APP for State.

Mr. R. M. Pawar, PSI, Pali Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 14th DECEMBER, 2023

P.C:-

1) Heard the learned Counsel for the applicants and the learned APP for the State.

2) This application is preferred for pre-arrest bail in connection with C.R. No. 148 of 2023, registered with Pali Police Station, Raigad, for the offences punishable under Section 406 and 409 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3) The applicant No. 1 was the Sarpanch of Village Panchayat, Hatond, Tal. Sudhagad, Dist. Raigad. The applicant No. 2 was posted as Gramsevak. In the year 2020, the Village Panchayat had purchased 15 ceiling fans under the Scheme of “Apanga Kalyan Nidhi”. In the year 2021, 30 chairs were also purchased under said Scheme. It was alleged that the said articles were not supplied to the beneficiaries and the applicants had misappropriated the said amount. An enquiry was conducted by the Development Officer. Pursuant to the enquiry, the Block Development Officer lodged the report.

4) The learned Counsel for the applicants submitted that the applicants had not misappropriated the amount. Though the orders were placed and amounts were disbursed, the suppliers had not supplied the articles. Eventually, the applicant No. 2 was transferred and a new body came to be elected to the Village Panchayat. The amount of Rs.49,950/-, which was allegedly misappropriated, has also been deposited by the suppliers, on 3rd October, 2023.

5) The learned APP resisted the application.

6) Prima facie, it appears that the amounts were disbursed to the suppliers. The bills and vouchers indicate that the amounts

were transferred to the accounts of the suppliers. To the show cause notice the applicant had given explanation that the articles could not be supplied by the suppliers. In any event, eventually, the allegedly misappropriated amount has been credited to the account of the Village Panchayat purportedly by the suppliers.

7) In the aforesaid view of the matter, having regard to the nature of the accusation, custodial interrogation of the applicants does not seem to be warranted.

8) I am, thus, persuaded to exercise the discretion in favour of the applicants.

9) Hence, the following order:-

ORDER

I) In the event of arrest of the applicants in connection with C.R. No. 148 of 2023, registered with Pali Police Station, Raigad, for an offence punishable under Section 406 read with Section 34 of Indian Penal Code, 1860, the applicants be released on bail on executing a PR Bond in the sum of Rs.30,000/- each, with one or two sureties in the like amount.

II) The applicants shall co-operate with the investigation and attend Pali Police Station, Raigad, on 26th and 27th December, 2023 in between 10.00 am to 1.00 pm and, thereafter, as and when directed by the Investigating Officer.

III) The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case

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

V) The application stands disposed.

[N. J. JAMADAR, J.]