

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.261 OF 2023

Chanda w/o Dattatraya Nawale

Vs.

State of Maharashtra through Police Station Officer, Sindhkhedraja Police Station,
District Buldhana

AND

CRIMINAL APPLICATION (ABA) NO.262 OF 2023

Sachin s/o Ramdas Nimbalkar and another

Vs.

State of Maharashtra, through its Police Station Officer, Sindhkhedraja Police Station,
District Buldhana

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. S. Mardikar, Senior Counsel a/b S. G. Joshi, Counsel for applicant.
Mr. A. M. Kadur, APP for respondent /State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 10/07/2023

1. Both the applications are filed by the applicants who are the Agricultural Supervisors for anticipatory bail, as they are apprehending arrest at the hands of police in respect of Crime No.216/2022 registered with Police Station Sindhkhedraja, District Buldhana for the offence punishable under Sections 420, 465, 467, 468 and 471 of the Indian Penal Code.

2. The applicants are apprehending arrest at the hands of the police as accusation is made against them on the basis of report lodged by one Vasant Ganpat

Rathod. As per the allegations, Government has lodged the scheme Pradhan Mantri Krushi Sinchan Yojana 2020-2022 through Taluka Krushi Adhikari, Sindhkhedraja Agriculture Department. According to the guidelines of the Government under the scheme, the farmers of the Sindhkhedraja submitted applications through the MahaDBT on line system and on the portal for drip and micro irrigation. After that farmers at Sindhkhedraja got installed the drip farming pipes to the Suresh Laxman Chavan Proprietor of Jai Bhavani Krushi Kendra who was the authorized dealer of Drip India Irrigation Private Limited, Nashik. It is further alleged that said Suresh Laxman Chavan by submitting the duplicate bills of the company received the payment from the Government. The Junior Clerk and Stock Inspection Officer does not realize that the company's duplicate bills are fake and forged, it was noticed after receiving the GST details form. The GST details form as per the guidelines provided by Karponi to the authorized distributors and from the District Superintendent Agriculture, Buldhana on 20.05.2022. Thus, after verifying it was noticed that Suresh Laxman Chavan created fake documents and forged signatures showing allotment of materials to the beneficiaries and misled the Government by creating fake information about the materials received and thus caused loss of Rs.35,72,771/- to the Government. On the basis of the said report, the FIR was registered against Mr.Chavan and he was arrested.

3. As per the contention of the present applicants, they are Agricultural Supervisors. They are not at all concerned with the alleged offence, but they are deliberately implicated alleging that some applications which were allotted to the applicants for supervision were sent back by them and they have demanded money for the same. In fact, the role of the present applicants was only to supervise whether they have installed the drip farming pipes. With the false allegations by some of the agriculturists, the present applicants were implicated. Now, the investigation is completed, charge-sheet is filed and their custodial interrogation is not required. Hence, they be released on anticipatory bail.

4. The said application is strongly opposed by the State by filing reply on the ground that the applicants are the Agricultural Supervisors. The State Government has implemented the scheme through Krushi Vibhag Taluka Krushi Adhikari, Sindhkhedraja, therefore, as per the guidelines of the Government, the farmers of the Sindhkhedraja ought to have filed an application on Thibak Tushar Sinchan Portal. After scrutiny of the documents, the received proposals were sanctioned. Accordingly, the farmers from Sindhkhedraja have fixed Thibak Tushar Sanch through the authorized seller distributor of Drip India Irrigation Private Limited, Nashik namely, Suresh Laxman Chavan. The bills were

submitted through online. It reveals that the said bills are forged and fabricated one. The accused persons misguided the Government by making duplicate bills and obtained Rs.35,72,771/- from the Government. The present applicants are also beneficiaries of the misappropriation amount and therefore, there is a *prima facie* case against the present applicants.

5. During investigation, the Investigating Officer recorded the statements of various witnesses and obtained bill receipts given by the applicants. It *prima facie* reflects that the involvement of the present applicants in misappropriation. Thus, there is a *prima facie* material against the present applicants and prays for rejection of the present application.

6. Heard learned Senior Counsel Mr. Mardikar for the applicants. He reiterated the contentions and submitted that as far as the applicant Chanda Dattatraya Nawale in Criminal Application (ABA) No. 261/2023 is concerned, there is no allegation against her that she has demanded any amount from anybody. Merely because she is the Agricultural Supervisor and the work of supervising regarding the implementation of the scheme was allotted to the Supervisors, she is implicated in the alleged crime. Now, the investigation is completed, charge-sheet is filed and her custody is not at all

required. Hence, she be protected by granting anticipatory bail.

7. As far as the applicants in Criminal Application (ABA) No.262/2023 are concerned, the statements of some of the agriculturists shows that the present applicants approached to them and demanded money. This false allegation is made against the present applicants. The present applicants have not played any role either any installation and the role attributed to the present applicants is only of supervision. Their custodial interrogation is not required and hence they be released on anticipatory bail.

8. The learned APP strongly opposed the application and submitted that charge-sheet is filed against the co-accused i.e. Mr. Suresh Chavan. As far as the role of the present applicant is concerned, investigation is to be carried out, hence application deserves to be rejected.

9. Having heard the learned Counsel for both sides and on perusal of the investigation papers, admittedly, there is no allegation against the applicant Mrs.Chanda Nawale, who is applicant in Criminal Application (ABA) No. 261/2023. She is implicated only she is working as Agricultural Supervisor and the work of implementation of the scheme was to be supervised by

the Agricultural Supervisor. As far as the other two applicants are concerned, there is specific allegation against them that they have demanded some amount from some of the agriculturists by visiting their agricultural field. The Investigating Officer is present before the Court. After taking due instructions from him learned APP make a statement that Investigating Officer has submitted that their custodial interrogation is also not required. Thus, though there is allegations against the present applicants that they have demanded the amount from the agriculturists, but the Investigating Officer did not require their custody for the investigation purpose. Therefore, their prayer for grant of anticipatory bail can be considered. Considering their custodial interrogation is not required, the allegation of forgery is not against the present applicants. Only allegation against the present applicants is that they have demanded some amount from some of the agriculturists.

10. As observed by the Hon'ble Apex Court in **Satender Kumar Antil Vs. Central Bureau of Investigation** reported in **(2022) 10 SCC 51** that even for a cognizable offence, an arrest is not mandatory as can be seen from the mandate of Section 41 of the Code of Criminal Procedure. In view of the observations and directions of the Hon'ble Apex Court it was the Investigating Officer who has to satisfy himself that the physical custody of the accused is required.

11. Here in the present case, the Investigating Officer has made a statement that the custody of the present applicants is not required for the investigation purpose. Considering that, *prima facie* investigation is already carried out and completed by the Investigating Officer as far as the allegation of forgery and cheating is concerned. As far as the role of the present applicants is concerned, regarding that they have demanded the amount, they are to be interrogated. For the purpose of interrogation their physical custody is not required and the Investigating Officer has also satisfied himself that their physical custody is not required. Considering the same both the applications deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

(i) The Criminal Application (ABA) Nos.261/2023 and 262/2023 are allowed.

(ii) The applicant in Criminal Application (ABA) No.261/2023 namely, (1) **Chanda w/o Dattatraya Nawale**, and applicants in Criminal Application (ABA) No.262/2023 namely, (1) **Sachin s/o Ramdas Nimbalkar** and (2) **Gajanan s/o Dhanu Chothe** be released on anticipatory bail in the event of their arrest in Crime No.216/2022 registered with Police Station Sindhkhedraja, District Buldhana for the offences punishable under Sections 420, 465, 467, 468 and 471 of the Indian Penal Code on their executing P.R. bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

(iii) The applicants shall attend Police Station as and when required for the investigation purpose and shall cooperate the investigating agency.

(iv) The applicants shall furnish their cellphone numbers and address with the address proof.

(v) The applicants shall not induce, threat or promise any of the witnesses who are connected with the alleged crime.

(URMILA JOSHI-PHALKE, J.)

Sarkate