



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 BAIL APPLICATION NO. 117 OF 2024

Sandeep Chandrabhan Nikam

VERSUS

The State of Maharashtra

Advocate for Applicant : Shri R.S. Deshmukh, senior advocate
a/w Mr. Vishal Chavan i/b Mr. A.R. Tapse
APP for Respondents: Mr. Satish A. Gaikwad

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 4th APRIL, 2024.

PER COURT :-

1. This is an application for granting bail under section 439 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") in connection with crime No. 72 of 2022 registered with Bodwad police station, District Jalgaon for the offences punishable under Sections 420, 419, 409, 467, 468, 469, 471 r.w. 34 of the I.P.C. His application with similar prayer bearing criminal bail application No. 801 of 2023 came to be rejected by the learned Additional Sessions Judge, Bhusawal, vide order dated 3.1.2024.

2. The applicant is arrested in misappropriation of Rs.99,52,032/-. The applicant was Village Development Officer/Gram Sevak of four villages i.e. Muktal, Vichce, Shelwad and Surwade. It is averred in the report that the applicant and other accused i.e. Nilesh Shantaram Mali etc. misappropriated the huge amount. The said

misappropriation came to be notice after the audit carried out by the Block Development Officer.

3. Learned advocate for the applicant submitted that the applicant has not committed any crime. He had used that amount as per the scheme launched by the village Panchayat. Only some amount was deposited in his account, which was used for the purpose of making various constructions. Learned advocate for the applicant submitted that no opportunity was given to the applicant to explain about the said transaction. The necessary permissions were granted by the higher authorities for that purpose. Some work was done by the illiterate contractors having no bank account and therefore, some amounts were transferred to their accounts. The said amounts were paid to them and the receipts are filed on record. Some beneficiaries are residing in remote and backward areas and therefore, it was very difficult to pay the said amounts to them. Some photographs are also produced. The applicant got ideal Gram Sevak award in the year 2019-2020. The list of work done by him is also produced. Some news items published in the newspapers regarding good conduct of this applicant are also produced on record. The applicant had completed all Government schemes. All work was done under the supervision of Block Development Officer. At the most it can be said as irregularity or misconduct. The applicant is facing departmental enquiry and is under suspension. There is no criminal intention or motive for alleged commission of crime. Nothing is recovered from

this applicant. He therefore prayed for allowing the application.

4. Learned A.P.P. for the respondent-State has strongly opposed the application and submitted that documentary evidence shows that huge amount was found in the account of the applicant. 27 Toilets have been shown as constructed in the names of deceased persons, which are in fact not constructed. However, the amount against the said construction is withdrawn and misappropriated by the applicant. Enquiry officer has discovered those facts and the statements of witnesses are also supported. It is revealed from the statements of witnesses that the toilets are not in existence. Considering all these aspects it is lastly prayed to reject the application. It is also pointed out that the application for anticipatory bail bearing ABA No. 911 of 2022 filed by the applicant was rejected by this Court and also by the Hon'ble Supreme Court.

5. Perused the charge sheet. The charge sheet shows that as per the allegations of the prosecution there is prima facie evidence which shows that huge amount has been transferred to the personal account of this applicant. The reason for this is to attract the commission on his account and later he paid that amount to the illiterate and poor beneficiaries. However, there is evidence of some of the witnesses that they have not received that amount and some of the witnesses have stated that their toilets were not constructed for which subsidy amounts are shown as paid to them. Merely because

there are technical and other sanction of the higher authorities, it cannot be accepted that the applicant has not got the said amount. As far as the parity is concerned, the role of this applicant is different than those who are granted bail. He is prime accused. The applicant is responsible official of Village Panchayats. Considering the role of this applicant and nature of the crime, as well as the guidelines and ratio laid down by the Hon'ble Supreme Court in the cases of ***Deepak Yadav Vs. State of Uttar Pradesh and another, (2022) 8 SCC 559*** and ***Shahzad Hasan Khan Vs. Ishtiaq Hasan Khan and another, (1987) 2 SCC 684*** and the fact that the applicant is involved in serious crime, the application deserves to be rejected. Hence, the application is rejected.

(SANJAY A. DESHMUKH, J.)

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