



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 174 OF 2024

BHASKARRAO BAPURAO PATIL KHATGAONKAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. V. D. Sapkal, Sr. Advocate i/b Mr. Swapnil S. Rathi, Advocate for
Applicants
Mr. A.B. Girase, PP for Respondents/State
Mr. V.D. Hon, Sr. Advocate i/b Mr. A.V. Hon, Advocate for Informant
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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 29th APRIL, 2024

PER COURT :

1. Applicants apprehend arrest in C.R. No.09/2024, registered with Ramtirth Police Station, Dist. Nanded, for offence punishable under Sections 420, 419, 465, 468 r/w 34 of the Indian Penal Code.

2. Informant lodged private complaint seeking directions under Section 156(3) of Cr.P.C. Pursuant to the directions issued by learned Magistrate FIR in question is registered, wherein it is alleged that informant was elected as Chairman of Tuljabhavani Ginning and Processing Co-operative Society, Narsi, Tq. Naygaon, Dist. Nanded, in the month of April, 2023. Earlier, Govindrao Bhaurao Bhosale and Chandrakant Govindrao Shriramwar were Chairman and Secretary of the said Society. From 21/10/1999 property of the Society ad-measuring 35 x 40 Sq. Foot (total 1400 Sq.Foot), was agreed to be

sold to BSNL for consideration of Rs.9,10,000/-. Said amount was to be received from BSNL. On 04/02/2022, Govindrao Bhaurao Bhosale and Chandrakant Govindrao Shriramwar were Chairman and Secretary of the Society. Though they were aware that neither applicant No.1 was Chairman nor applicant No.2 was Secretary of the Society, Chairman and Secretary with dishonest intention conspired to obtain wrongful gain and forged documents and by signing those documents have shown that they have compromised with BSNL and agreed to accept compensation of Rs.17,00,000/-. The cheating is done with a view to grab compensation amount. Society has authorised informant being Chairman to lodge FIR.

3. Heard learned Senior Advocate for applicants, learned Public Prosecutor for respondents/State and learned Senior Advocate for Informant. Perused the investigation papers.

4. It is a matter of record that in the year 1999 Society's land ad-measuring 35 x 40 Sq. Foot (total 1400 Sq. Foot), was sold to BSNL to erect tower, with effect from 21/10/1999 for consideration of Rs.9,10,000/-. At that point of time, Govindrao Bhaurao Bhosale was Chairman and Chandrakant Govindrao Shriramwar was Secretary, as per allegations made in FIR they continued on their respective positions till 04/02/2022. Admittedly, till date BSNL has not paid single rupee to the Society. No steps whatsoever to recover the amount of compensation are taken either

by informant and/or by present Board of Directors. Nothing prevented informant from initiating appropriate legal proceedings for recovery of compensation amount as per market value. Since the amount is till date not paid by BSNL, there is no question of any wrongful loss or wrongful gain and cheating on the part of applicants.

5. Learned Public Prosecutor vehemently opposed the application contending that Resolution No.4 dated 30/07/2016, by which applicants were authorised to sign the transactions in question, is forged by applicants and therefore, custodial interrogation of applicants is necessary. The said submission is devoid of merit, in as much as investigation pertains to documents which are already seized by investigating agency and for that purpose custody of applicants is not necessary.

6. Admittedly, informant is political rival of applicants and *prima facie* it appears that he has lodged present FIR only to settle the score with applicants. Applicants were granted interim protection and they have co-operated in the investigation. In the backdrop of above facts, pre-trial custodial detention of applicants is not necessary as no useful purpose would be served by remanding applicants to the custody. Hence, the application is allowed by confirming interim protection granted to applicants by order dated 01/02/2024.

7. Till filing of charge-sheet, applicants shall attend concerned police station as and when called by investigating officer and shall co-operate in the investigation. Applicants shall not tamper prosecution evidence.

8. It is made clear that observations made in this order are *prima facie* and shall not influence the trial Court during trial.

(NITIN B. SURYAWANSHI, J.)