IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

916 BAIL APPLICATION NO. 1386 OF 2024

RUPESH KANTRAO CHIDRAWAR
VERSUS
THE STATE OF MAHARASHTRA
...

Advocate for Applicant : Mr.V.D. Sapkal, Senior Advocate i/b Mr.Chalikwar Shashikant Tukaram
APP for Respondent/State : Mr.S.B.Narwade
...

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 4th September, 2024.

P.C.:

1. The applicant is seeking bail in Crime No.0357 of 2024 registered with Jintur Police Station, Tq. & Dist. Parbhani, for the offences punishable under sections 420, 405, 408, 409, 464, 465, 466, 468, 471, 477-A, 120-B read with 34 of the Indian Penal Code (For short, "IPC").

2. It is prosecution's case that on 6th June, 2024, the informant Gangadhar Kadam Chairman of Agricultural Produce Market Committee of Jintur (for short, "APMC, Jintur") lodged complaint against the applicant and co-accused. Informant is elected Chairman of the APMC, Jintur. After taking charge as a Chairman, he realized that previous non-government Administrative body (for short, "Body") of APMC Jintur caused financial loss to the APMC, Jintur by committing misappropriation of the funds. So on 27th May, 2023, the informant filed complaint application to the District Deputy Registrar,

Parbhani (for short, DDR") with request to make inquiry in respect of alleged fraud and forgery and to lodge the complaint against the responsible persons. On the basis of the said complaint, DDR Parbhani by order dated 30th June, 2023 appointed Mr.D.A. Bais Thakur, a Special Auditor Class-II to audit for the period of financial year 2021-2022 and submit its report. Accordingly, the Special Auditor submitted the special report on 5th July, 2023 before the DDR, Parbhani. Thereafter, in order to verify the allegations made in the report on 11th August, 2023, the DDR, Parbhani appointed three member inquiry committee (for short, "the committee"). The said committee inquired the matter and also sought explanation from the concerned persons and submitted its report to the DDR, Parbhani on 7th December, 2023. Thereafter, the DDR, Parbhani, after giving opportunity to the responsible persons and taking their written explanation passed the order on 28th May, 2024, for registration of a crime of forgery and misappropriation of fund against the responsible persons. Therefore, the informant has lodged report.

3. It is prosecution's case that on 22nd January, 2020 under the Chairmanship of Chief Administrator Shri Monoj Thite, Non-Government Administrative Body, APMC, Jintur was formed along with 10 Administrators including the applicant. It is alleged that during their tenure, they misappropriated the funds of APMC, Jintur and purchased the property in their names. The Body during their tenure revised the

false layout and distributed the plots without following the rules, and according to their whims they got the resolutions passed in collusion with each other and misappropriated the funds of the APMC, Jintur. The said layout was revised by misguiding the Director of Marketing and got the layout sanctioned and allotted the same illegally. It is alleged that the applicant has received Rs.21,51,000/- from Mr.Vivek Dubbewar for giving a plot but he only deposited Rs.2,00,000/- to the AMPC, Jintur and gave the receipt of the same to the plot holder. The said plot holder made complaint and this fact is disclosed. Some of the plots were given on lease to Sundarlal Sawji Urban Co-operative Bank and without terminating the earlier lease agreement, co-accused and applicant again leased those plots to other six persons including Mr.Vivek Dubbewar and from these six persons Rs.24,000/- each for transfer fees and development fund and mark-out charges were received. It is alleged that accused no.1 Manoj Thite received Rs.2,90,000/- each from plot holders towards rent and Rs.2,00,000/- each towards lease premium and he gave the colour xerox copies as receipts to the plot holders and cancelled the original receipts and thereby committed misappropriation of Rs.10,00,000/-. During inquiry with the plot holders, it is disclosed that the said receipts were colour xerox. It is alleged that the appointed Body during their tenure without doing any work and by preparing forged documents released the bills under the head of Construction Account without following the due procedure of law and the amount of Rs.5,25,000/- is shown to have been given to Mr.Shaikh Nasir and thereby misappropriated the said amount. It is alleged that the godown of the APMC, Jintur was given on lease to one Mr.Anant Satpute upto October, 2021. Thereafter, within 4 to 5 months, it was shown that the said godown was in a dilapidated condition and thereafter, the scrap of the said godown was sold and amount of only Rs.40,000/- was deposited to APMC, Jintur though 10 Tons of irons were sold illegally and thereby misappropriation of the amount of Rs.3,00,000/- has been committed. It is alleged that the applicant and co-accused during the financial year 2021-2022 without purchasing anything prepared false bills and vouchers and received the amount and misappropriated the funds by showing false purchase and false expenses in the name of APMC, Jintur and submitted the bills and thereafter approved the said bills and thereby committed misappropriation of funds. It is alleged that the false bills of Rs.3,95,425/- of Vyankatesh Plywood and Hardwar, false bills of Rs.3,00,000/- of Patki Xerox were produced to show that goods were purchased from them and those bills were approved and the said amount is misappropriated by the Chief- Administrator. In the same way, false bills of Rs.3,28,500/- of Jagdamba Printers, Proprietor Madhukar Khapre was produced to show that the stationary under the various heads were purchased and the said amount was misappropriated. The false bills of Rs.6,92,890/- of Shri Sant Sawata

Enterprises and Electronics were produced for purchasing articles, but actually those articles were not brought in the APMC, Jintur and aforesaid amount is misappropriated. It is alleged that the Body during their tenure showed the expenditure for road development without doing such work and received the amount by preparing false documents and misappropriated the funds. It is alleged that the said body disbursed the amount of Rs.1,46,276/- to Borade Engineer for shifting 11 KV light from the premises of APMC, Jintur without following due procedure of the law. Actually, no such light shifting work was done and no such entry in the MSEB Department in this respect is done. Borade Engineer and the Body in collusion with each other prepared false document and misappropriated the funds of the APMC, Jintur. It is alleged that the said Body received the funds under the head of sanitation and maintenance without doing such work by preparing false vouchers and approving the same committed misappropriation of the funds. It is alleged that on 7th April, 2021 by preparing false bills of Rs.2,00,000/- in the name of Sudhakar Ramrao Sanap for spraying and by approving the said bill and by showing the payment of same in cash misappropriated the said amount. The said Body showed Rs.6,42,000/- under the head of Travelling expenditure without spending on it and misappropriated the same. As per the Forensic Audit report for the financial year 2021-2022, the said body has misappropriated the amount of Rs.53,20,000/- under the different heads.

4. It is contention of the learned counsel for the applicant that the applicant has been falsely implicated in this case. The allegations against the applicant are that he has received Rs.21,51,000/- from Mr. Dubbewar for allotting the plot to him. The learned counsel further submitted that the said amount was not received by the applicant and it was received by accused no.1 Manoj Thite. In inquiry report, in the statement before three member inquiry committee appointed by DDR Shri Dubbewar has stated that he has given the said amount to accused no.1. In his statement, there was no reference of the applicant. The applicant was the member and he signed on each resolutions as per other members. The applicant is behind bar for more than two months. The applicant is a respectable person in the society. He has no criminal antecedents. He is a Karta of his family. The applicant was in police custody for four days but nothing is recovered at the instance of the applicant and all the documents have been seized by the police. It may take time to conclude the trial. Further detention of the applicant is not required and requested to allow the application.

5. It is the contention of the learned APP that the false layout was prepared in respect of the land. The said land was encroached by the said Body of which the applicant was the member. The learned counsel further submitted that the applicant has accepted

Rs.21,51,000/- from the witness Vivek Dubbewar and the receipt in handwriting of the applicant has been seized. Though the said Body had no authority to take policy decision inspite of that the said Body has passed resolutions and misappropriated the amount. Shri Dubbewar has given the statement before the police under section 161 of the Criminal Procedure Code and in the said statement, he has stated that he had given Rs.16,37,000/- in cash to the applicant and the applicant had given three receipts to him and out of those three receipts one receipt is false receipt, which shows the involvement of the applicant in the said crime. The learned APP further submitted that in the statement of witness Amol Umate, he has stated that the applicant along with accused no.1 opened his bank account in Sundarlal Sawaji Bank. The applicant has signed as witness on the bank account opening form. Thereafter, the amount was deposited in his bank account and it is withdrawn by accused no.1. The learned APP further submitted that as the applicant has signed as a witness on the bank opening form of the witness Umate, it shows his involvement in the crime. If the applicant is released on bail, he may abscond or he may influence the prosecution witnesses, hence requested to reject the application.

6. I have heard both the learned counsel. Perused the F.I.R. and police papers produced on record.

7. The allegations against the applicant are that he has accepted

the amount of Rs.16,57,000/- from witness Dubbewar. He was member of the said body and they have committed misappropriation of the amount as well as created false documents. Shri Dubbewar has given statement before the three members committee appointed by DDR. In the said statement Shri Dubbewar has not stated anything against the applicant. He has stated that receipts were given to him by accused no.1 Shri Thite and he has not stated about the amount of Rs.16,57,000/- given to the applicant. Whereas, in the police statement, Shri Dubbewar has stated about the role played by the applicant. Witness Amol Umate has stated that the applicant and accused no.1 took him to open the bank account in Sundarlal Sawaji Bank and there they opened their bank account and the applicant has signed as a witness on the said bank account opening form. In his statement, he has further stated that the applicant was not ready to sign as a witness but accused no.1 abused him and forced him to sign as a witness on the bank opening form. The allegations in the statement of Amol Umate is against accused no.1 that he withdrew the amount deposited in his bank account and not against the applicant. The applicant is behind bar for more than two months. The police have seized all the documents. The applicant is a reputed trader. He has no criminal antecedents. He is the Karta of his family. It may take time to conclude the trial. Considering these aspects, his further detention is not required and I pass the following order :-

ORDER

(i) The application is allowed.

(ii) The applicant in connection with Crime No.0357 of 2024 registered with Jintur Police Station, Tq. & Dist. Parbhani, for the offences punishable under sections 420, 405, 408, 409, 464, 465, 466, 468, 471, 477-A, 120-B read with 34 of the Indian Penal Code be released on executing personal bond in the sum of Rs.25,000/- with one surety of the like amount, on the following conditions :-

(a) the applicant shall not pressurize the prosecution witnesses and shall not tamper the prosecution evidence.

(b) the applicant shall attend the police station as and when required by the Investigating Officer.

[SHIVKUMAR DIGE, J.]

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