



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

944 ANTICIPATORY BAIL APPLICATION NO. 1710 OF 2023

DEEPALI MANOHAR MHASKE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....

Mr. N. D. Sonavane, Advocate for Applicant

Mr. B. A. Shinde, APP for the respondent/State

.....

AND

ANTICIPATORY BAIL APPLICATION NO. 1711 OF 2023

KASHABAI LAXMAN AHIRE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....

Mr. S. N. Pahune Patil, Advocate for Applicant

Mr. B. A. Shinde, APP for the respondent/State

.....

AND

ANTICIPATORY BAIL APPLICATION NO. 1720 OF 2023

RAMKISHAN SHAHU KARALE

VERSUS

THE STATE OF MAHARASHTRA

.....

Mr. P. P. Patni h/f Mr. A. S. Bajaj, Advocate for Applicant

Mr. B. A. Shinde, APP for the respondent/State

.....

AND

ANTICIPATORY BAIL APPLICATION NO. 1725 OF 2023

RAMESH UMAJI DIVEKAR

VERSUS

THE STATE OF MAHARASHTRA

Mr. S. Y. Mahajan, Advocate for Applicant
Mr. B. A. Shinde, APP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 18th DECEMBER, 2024

PER COURT :-

1. Applicants apprehend arrest in connection with Crime No. 306/2023, registered with Shillegaon Police Station, District Aurangabad for the offences punishable under Sections 420, 409, 465, 467, 468, 471 r/w 34 of the Indian Penal Code.
2. Applicants are Gram Sevak and Sarpanch. The first informant is Block Development Officer. Perusal of the first information report indicates that the allegations against the applicants are of incurrence of excessive expenditure, performing the work without obtaining administrative sanctions and technical sanctions and without calling tenders. There is no allegation in the first information report that the money was withdrawn without work being done.
3. Learned counsels for the applicants submit that the inquiry was conducted against them and that in the said inquiry, no order of dismissal is passed against them. It is pointed out that the allegations in the departmental inquiry against present applicants is not about the misappropriation of funds, but alleged irregularities committed by them.

It is submitted that the these orders are challenged by the applicants before the Competent forum. It is their contention that in any case the amount of libability fixed against the present applicants is already deposited and as such no custodial interrogation of the applicants is necessary.

4. Learned APP sought to rely investigation papers. The documents according to him indicate that departmental inquiries were conducted against applicants and that the penalties are imposed of withholding increments against the Gram Sevak. He also drew attention of the Court to the spot panchnama, wherein it is stated that the work has not been done at various spot. He further submits that the applicants are having custody of the record of Grampanchayat and therefore their custodial interrogation is necessary to recover the same.

5. At the outset it needs to be recorded that in the entire first information report which is lodged by the responsible officer like Block Development Officer, there is no allegation that without performing the work any money was withdrawn by the applicants herein. Perusal of the report indicates that the allegations are in respect of excessive expenditure, non obtainment of the technical/administrative sanction and without calling tenders in some cases. It is pertinent to note that the Gram Sevak against whom the inquiry is conducted are not subjected to

any punishment of dismissal etc. Apparently, the reason for the same is that they are hold guilty for the alleged irregularities.

6. Apart from this there is no dispute about the fact that the liability which was fixed against the present applicants, said amount has been deposited in this Court. As such, their custody is not required for recovery of any amount. This Court finds no substance in the contention of learned APP that applicants having custody of the record of Gram Panchayat. There is nothing on record in the investigation papers to indicate so. The liberty of the applicants was granted in October, 2023. There is nothing to show that the applicants have abused the liberty. They are not likely to flee from justice. Hence, applications stand allowed in terms of interim orders dated 11/10/2023 and 12/10/2023.

(R. M. JOSHI, J.)

ssp