



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1817 OF 2023

Pramodkumar Rambhau Dongre

... Applicant

VERSUS

The State Of Maharashtra
And Another

... Respondents

.....
Mr. Sohail Subhedar h/f Mr. N.S. Ghanekar, Advocate for
Applicant

Mr. A.R. Kale, APP for Respondents - State

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 27th MARCH, 2024

ORDER :

1. Applicant apprehends arrest in C.R. No. 291 of 2023 registered with Karmad Police Station, District-Aurangabad for offences punishable under sections 420, 406, 409 read with 34 of the Indian Penal Code.

2. FIR is lodged by Sunil Uttamrao Khandare, Technical Manager appointed by C.E.O., Zilla Parishad, Aurangabad stating that since last 2 ½ years, he is given responsibility of technical supervision, guidance and implementation of Zilla Parishad's rural water supply schemes in Aurangabad Taluka. He was given responsibility of implementation of water supply scheme of Aadgaon Sarak, Taluka and District-Aurangabad. In National Drinking Water Scheme, on 30.03.2012, total work of

Rs.1,07,29,000/- of water supply scheme was sanctioned by Chief Executive Officer and Executive Engineer had given technical sanction. As per the National Drinking Water Supply Scheme, water supply scheme is to be implemented by Sarpanch through President, Secretary and water supply sanitation committee. By communication dated 30.03.2012, the water supply scheme was entrusted to the committee. As per the guidelines given in communication dated 30.03.2012, the water supply scheme of Aadgaon Sarak water supply sanitation committee comprising of President Hari Rathod, Secretary Chamkabai Hari Rathod and Gramsevek R.U. Wagh by floating tender, gave the work to contractor Ganesh Ghorpade. As per the scheme, 10% amount is from public fund and 90% amount will be provided after the recommendation of Sub-engineer and after given sanction by the committee. First installment of 30% i.e. Rs.28,96,830/- by way of advance was given to the committee on 30.03.2012, second installment of 30% i.e. Rs. 28,96,830/- was given to the committee on 17.11.2012 and third installment of 30% i.e. Rs.28,96,830/- was paid to the committee on 23.12.2014. Thus, total amount of Rs.93,15,214/- (excluding environmental charges) was given to the committee. In fact, the valuation of work done was found to be of Rs.64,17,362/-

and an amount of Rs.28,97,362/- appeared to be not spent. Without obtaining valuation of the said scheme from Zilla Parishad, Sub-division, the committee had paid that amount to the Contractor. Villagers complained about the said scheme to Zilla Parishad and on 30.08.2018, a committee headed by Deputy Engineer had inquired into the said scheme and found substance in the complaints made by the villagers. Committee also came to a conclusion that an amount of Rs.28,97,362/- is required to be recovered.

3. After the inquiry, newly elected Sarpanch Chitra Rethe filed criminal writ petition no.1807/2019 in respect of the excess payment of Rs.28,37,362/- made to the contractor. Thereafter, the contractor deposited an amount of Rs.4,38,900/- on 10.12.2019 and Rs.24,59,000/- on 14.12.2019 in the account of water supply committee, by cheques.

4. Thereafter, on 04.03.2021, the Chief Executive Officer ordered inquiry of the said scheme by the committee of Deputy Engineer, Water Supply Scheme, Paithan and Accounts Officer, Panchayat Samiti, Soygaon, District-Aurangabad. In the said inquiry, it was revealed that the amount deposited in the account of water supply committee was withdrawn by

contractor in the month of January 2020. No record of the withdrawal of amount is made available to the inquiry committee. On inquiry with the Aurangabad District Central Co-operative Bank, Aurangabad, it was informed that as per the letter of Deputy Engineer, Water Supply, Sub-division, Aurangabad dated 30.12.2019, the said amount was allowed to be withdrawn by the contractor. The signature on the said communication is that of applicant.

5. Heard learned advocate for applicant and learned APP for respondents-State. Perused the investigation papers.

6. It is the case of applicant that, he has not issued the communication dated 30.12.2019 and the same is forged by the contractor. He had informed to Bank authorities by communication dated 10.12.2019 not to release the amount in favour of anyone. Therefore, he had no occasion to issue communication dated 30.12.2019. Applicant claims that he has retired on 30.09.2020 and therefore he has no control over the record.

7. Applicant at the relevant time was working as Deputy Engineer, Water Supply, Zilla Parishad, Aurangabad. In the inquiry conducted by Zilla Parishad, active involvement of applicant in the present crime is revealed. According to

prosecution, in connivance with the contractor, applicant by communication dated 30.12.2019, gave no objection to disburse the cheque amount of Rs.28,97,900/-. The signature of applicant appears to be on the said communication. On the basis of scanned photocopy of the said communication, Bank has disbursed the amount to the contractor. Original of the said letter is to be recovered from applicant and for that purpose, custodial interrogation of applicant is necessary.

8. In fact, applicant was aware that contractor has deposited the said amount pursuant to proceedings filed before the Division Bench of this Court and the same could not have been withdrawn by the contractor without the orders of this Court.

9. *Prima facie*, there appears no substance in the contention of applicant that contractor has fabricated the said letter dated 30.12.2019 and forged his signature as he is the sole beneficiary. The sentence appearing at the end of letter dated 30.12.2019 is that, 'amount should not be disbursed without original documents of this office'. If the contractor had fabricated the letter, then this sentence would not have appeared in the said communication.

10. Main accused contractor is yet to be arrested and investigation reveals that without connivance of applicant, the contractor could not have withdrawn the amount. It therefore, *prima facie*, appears that applicant has played active role in commission of offence. Therefore, though he has retired on 30.09.2020, his custody is necessary for effective investigation and for recovery of the original letter dated 30.12.2019. Therefore, he is not entitled for discretionary relief of anticipatory bail. Application is therefore rejected.

11. At this stage, learned advocate for applicant prays for continuation of interim protection granted to the applicant on 29.11.2023, for a period of two weeks.

12. Protection is continued for a period of two weeks from the date of uploading of this order.

[NITIN B. SURYAWANSHI]
JUDGE