

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3140 OF 2024**

Dattatray Haribhau Jadhav	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Sachin H. Deokar a/w. Mr. Vignesh Ashokan and Mr. Balaji K. Pimpore for applicant.

Mr. Kiran C. Shinde, APP for respondent-State.

Mr. Prashant R. Madane, PSI, Karmala Police Station, District Solapur Rural.

CORAM : MANISH PITALE, J.

DATE : 29th NOVEMBER, 2024

P.C. :

1. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0439 of 2023 dated 02.06.2023, registered at Karmala Police Station, District Solapur Rural, for offences under Sections 409, 420 and 477A read with Section 34 of the Indian Penal Code, 1860.

3. The informant in the present case is an Extension Officer of Panchayat Samiti, Taluka Karmala, District Solapur and the allegation is that the named accused person i.e. the wife of the applicant, who, at the relevant time, was the sarpanch and the co-accused person i.e. Gram Sevak, had connived to misappropriate huge amount made available to Gram Panchayat, under the 14th Finance Commission for development purposes.

4. When this application was taken up for consideration on 26.11.2024, after hearing the learned counsel for the applicant and

the learned APP, this Court was of the opinion that the investigation papers need to be perused. Accordingly, the application was adjourned to be heard today.

5. The learned counsel for the applicant submits that the applicant was not named in the FIR and there is no material to link the applicant with the alleged offences. It is submitted that merely because the applicant is the husband of the named accused person, who was the Sarpanch at the relevant time, cannot be a ground to implicate him. It is submitted that even if the material now brought on record alongwith the charge-sheet, is to be taken into consideration, there is nothing to indicate involvement of the applicant in the alleged misappropriation of amount made available to the Gram Panchayat under the 14th Finance Commission. It is submitted that the applicant is ready to co-operate with the investigation.

6. On the other hand, the learned APP submits that the statements of witnesses recorded during the course of investigation, indicate that the applicant was himself acting as Sarpanch, although his wife was the elected Sarpanch. The witnesses have stated that the applicant was able to throw his weight around in the village and taluka, due to which no one could question his actions. It is further submitted that the witnesses had also indicated the manner in which the applicant had used cheques signed by the co-accused persons from the account pertaining to 14th Finance Commission amount, thereby indicating that he is party to such misappropriation.

7. This Court has considered the rival submissions, in the light of the material brought on record. The application deserves to be

allowed for the following reasons:

- (a) The applicant was not named in the FIR, which specifically pertains to misappropriation of amount of ₹ 71 lakhs from the amount made available to Gram Panchayat, under the 14th Finance Commission for development purposes.
- (b) The material on record at this stage, does not indicate any action on the part of the applicant in either signing any cheques or other instruments or forging such signatures, in order to misappropriate the amounts.
- (c) The statement of one witness upon which the learned APP placed much reliance, only shows that the applicant physically carried certain cheques signed by the co-accused persons, pertaining to 14th Finance Commission for purchasing paint for the said witnesses. The said statement only indicates that in lieu of such cheques being handed over by the applicant, paint was made available. The statement does not indicate that such material procured from the shop, was misused by the applicant.
- (d) Even if there are certain statements of witnesses, indicating that the applicant had the reputation of being a strong man of the village or taluka and that he was effectively acting as the Sarpanch, such allegations are not the basis for registration of FIR. In fact, the FIR specifically pertains to misappropriation of the aforesaid amount.
- (e) There is nothing to indicate that the misappropriated amount found its way to the applicant in any manner. In fact, the material indicates that such amount went to the co-accused Gram Sevak and therefore, *prima facie*, the applicant can also not be said to be a beneficiary in the present case.
- (f) The applicant is ready to co-operate with the investigation.

8. In view of the above, the application is allowed in the following terms:

- (i) In the event the applicant is arrested in connection with FIR No.0439 of 2023 dated 02.06.2023, registered at Karmala Police Station, District Solapur, he shall be released on bail on furnishing PR Bond of ₹ 50,000/- with one or two sureties in the like amount to the satisfaction of the Trial Court.
- (ii) The applicant shall remain present before the Investigating Officer on 02.12.2024 and 03.12.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer.
- (iii) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.
- (iv) The applicant shall co-operate with the investigation and also in the proceedings before the Trial Court.

9. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

10. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

11. The application stands disposed of.

(MANISH PITALE, J)