



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.79 OF 2023

Gajanan s/o Baburao Maraskolhe

Vs.

State of Maharashtra, Through Police Station Officer Salekasa,
District Gondia

WITH

CRIMINAL APPLICATION (ABA) NO.80 OF 2023

Anil Manmohan Funde

Vs.

State of Maharashtra, Through Police Station Officer Salekasa,
District Gondia

WITH

CRIMINAL APPLICATION (ABA) NO.124 OF 2023

Santosh s/o Chhaganlal Madavi and others

Vs.

State of Maharashtra, Through Police Station Officer, Salekasa,
District Gondia

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. G. Karmarkar, Advocate for applicants.
Mr. Nikhil Jushi, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 12/02/2024

1. The Criminal Application (ABA) No.79/2023 is preferred by one Gajanan Baburao Maraskolhe, who is the Grader, the Criminal Application (ABA) No.80/2023 is preferred by Anil Manmohan Funde, who is the Director of Adivasi

Vividh Karyakari Sahkari Sanstha and the applicants namely Santosh Chhaganlal Madavi is President, Arun Manmohan Funde is a Center in-charge and Shivaji @ Shiva Nagarilal Kosme is Secretary of the said Society.

2. The applicants are apprehending arrest at the hands of police, as crime is registered against them vide Crime No.475/2022 registered with Police Station Salekasa, District Gondia for the offences punishable under Sections 406, 407, 408, 409 and 420 read with Section 34 of the Indian Penal Code, on the basis of report lodged by Manojasagar Sureshrao Bhagwat, who is the Auditor of Adivasi Vikas Mahamandal, Bhandara alleging that he is serving as Account Manager in said Vikas Mahamandal since 2015. The said Adivasi Vikas Mahamandal is collecting the paddy through various cooperative Societies and, therefore, the Mahamandal enters into the agreement. Said paddy is to be delivered to the rice millers for the process and this process is to be done, in view of the rules and regulations. It is alleged that the applicants who are the office bearers of Adivasi Multipurpose Seva Sahakari Sanstha, which is a registered Sanstha at Gorhe, Taluka Saleksa, District Gondia. It is further alleged that under the scheme of minimum support price, the Society had purchased the paddy of 45595.80 quintal from the agriculturists, out of that, the said Society has supplied 36832.33 quintal of

paddy and 8763.47 quintal appears to be misappropriated. It is shown that the said paddy was delivered to the various rice millers by loading it into the various trucks, but in fact it was never delivered and therefore, some rice millers have made complaints and to ascertain the misappropriation, the Committee was formed. From the report of Committee, it reveals that there is a misappropriation of 8613.47 quintal paddy by the office bearers of the said Society. On the basis of the said report, police have registered the crime against the present applicants.

3. Learned Counsel for the applicants submitted that the applicants who are the office bearers are not at all involved. On the contrary, they have intimated the Account Manager of the Adivasi Vikas Mahamandal regarding the Godowns. It is the duty of the Warehouse Officer to verify the stock, but they have not followed. The paddy was already distributed from the Society. These applicants are falsely implicated in the alleged offence without any specific allegation. He further invited my attention towards the communication which shows that the paddy is already recovered. The custodial interrogation of the present applicants is not required. He submitted that even considering the allegation as it is, custodial interrogation of the present applicants is not at all required and, therefore, they were protected by granting ad-interim

protection. Now, most of the investigation is already completed, their incarceration is not at all required and they be protected by confirming the anticipatory bail granted to them.

4. Learned APP strongly opposed the application on the ground that there is an agreement between the Maharashtra Rajya Sahakari Adivasi Vikas Mahamandal Maryadit, Nashik and the present Society. As per the said agreement, the Society was appointed as sub-agency to collect the paddy from the various agriculturists, accordingly the paddy was collected thereafter, the paddy of 45595.80 quintal was collected, but only 36832.33 quintal is supplied to the miller. There was a misappropriation of 8613.47 quintal. Some millers have complained that they have not received the orders and therefore, the investigation was carried out and it revealed that the Society has prepared the forged documents, as three delivery orders are placed on record showing that the paddy was supplied by loading into the trucks. The forged receipts of weigh bridge were also issued, but during investigation, it revealed that there is a contradiction in the delivery orders and the said receipts issued by the weigh bridge. Moreover, the statements of the truck drivers, by which the alleged paddy was supplied by loading in the said truck have stated that they have not supplied such type of paddy in their vehicles, as their trucks never loaded in the Society and it was never weighed at the weigh

bridge also. The statements of the employees of the weigh bridge also show no such trucks came to their weigh bridge for weighing the load. He submitted that considering the statements, it is crystal clear that the receipts i.e. delivery notes and the weigh bridge receipts are the forged documents. He also invited my attention towards the report of the enquiry Committee constituted by the Adivasi Mahamandal also shows that the present applicants are responsible for the said misappropriation.

5. After hearing the learned Counsel for the applicants and learned APP for the State, perused the investigation papers. There is no dispute as to the fact that the present applicants are office bearers of the Society and Society entered into an agreement with the Maharashtra Rajya Sahakari Adivasi Vikas Mahamandal. The Society i.e. Adivasi Vividh Karyakari Seva Society, Gorhe was appointed as sub-agency to collect the paddy from the agriculturists. Accordingly, the paddy was collected from the various agriculturists to the tune of 45595.80 quintal. As per the agreement, the Society was under obligation to supply it to the millers for the process, but the office bearers of the Society have supplied only 36832.33 quintal to the millers and there was a misappropriation of 8613.47 quintal. From the investigation papers, it further reveals that some of the millers have made complaints that they have not received the paddy and therefore, the

Committee was formed by the Adivasi Vikas Mahamandal and the report of the Committee shows that there is misappropriation of 8613.47 quintal. The office bearers of the Society have attempted to show that the delivery orders are issued and the paddy was loaded in the trucks mentioning the numbers and the Investigating Officer has also collected the receipts of the weigh bridge which shows the contradictions regarding the truck numbers and the load which was loaded in the said trucks. During investigation, the Investigating Officer has recorded the statements of the relevant truck drivers, who were driving the trucks bearing No. MH-40-N-0057, MH-35-K-4811 and so on. The statements of the truck drivers show that no paddy was loaded in their trucks and it was not weighed on the weigh bridge also. The statements of the employee of the weigh bridge and the owner of the weigh bridge also substantiate the said contention that no trucks were brought to the weigh bridge for weighing the load, which was loaded in the said trucks. Thus, the allegation regarding the misappropriation of the paddy is substantiated by the documentary evidence, as well as by the statements of the witnesses which shows the *prima facie* case against the present applicants.

6. While considering the bail applications in the event of their arrest, the Court has to consider the parameters i.e. the severity of the offence, the

availability of the present applicants for the purpose of investigation and the nature of the offence. Admittedly, the paddy was collected from the agriculturists, who have not received the payment towards the said paddy. Though some of the agriculturists have received the payments, but not all the agriculturists have received the payments towards the paddy. It is the hard earned money of the agriculturists which is not paid to them. Moreover, the paddy was collected by the said Society and the present applicants are the office bearers of the said Society. They are under obligation to protect and secure the goods which they have collected from the agriculturists, which they have not done and there is misappropriation of the said paddy to the extent of 8613.47 quintal. Considering the gravity of the offence and the ultimate sufferers are the agriculturists, in view of that, a *prima facie* case is made out against all the applicants and their bail applications for grant of anticipatory bail deserve to be rejected. Accordingly, I proceed to pass following order.

The applications are rejected.

(URMILA JOSHI-PHALKE, J.)