



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

CRIMINAL APPLICATION (ABA) NO. 559 OF 2024

Ashok Ganeshrao Solanke Vs State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. O.Y. Kashid, counsel for applicant.

Mrs. M.A.Barbde, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/08/2024.

1. Apprehending the arrest at the hands of police, in connection with Crime No. 207/2024 registered with Police Station Kotwali, Akola for the offence punishable under Sections 420, 409 of the Indian Penal Code, 1860, the applicant approached this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of a report lodged by Atul Prabhakar Dalal, who is an employee of Municipal Corporation Akola, on an allegation that the present applicant was working as a clerk in the Pension Section of the General Administration Department in Municipal Corporation Akola. The applicant has entrusted the work of distribution of pension accounts, vouchers, and to maintain the accounts. He has illegally transferred the pension amount in the accounts of various persons who are not employees of the Municipal Corporation and also not the persons receiving pension, even though the present applicant transferred the said amount in their account without having any authority. On receipt of the complaint

against the present applicant, the Commissioner of Corporation has constituted the investigation team by order dated 04/01/2024 to find out the misappropriation by the present applicant.

3. It further revealed that the present applicant, during his service period, misappropriated the funds of Rs. 1,27,26,927/- during 19/01/2019 to 12/01/2022. The departmental investigation team produced a list of 138 persons, out that 43 persons are not employees of Municipal Corporation and the 37 persons are existing employees of the Corporation. Thus, by illegally transferring the huge amount in the accounts of various persons, he has misappropriated the amount.

4. Learned counsel for the applicant submitted that the present applicant is the last person. There are several officers dealing with said works, they have cleared the said bills and are not arraigned as accused. He submitted that the applicant has undergone surgery and his physical health is not good. As far as the custodial interrogation is concerned, which is not required as an entire record with the investigating agency, in view of that, the application deserves to be allowed.

5. Learned APP strongly opposed the said application on the ground that the statements of the witnesses and the investigation carried out by the Municipal Commissioner shows the involvement of the present applicant in the

alleged offence. Considering the huge misappropriation and the persons duped are the poor pensioners, the custodial interrogation of the present applicant is required.

6. After hearing learned counsel for the applicant and on perusal of the recitals of the FIR as well as investigation papers, during which the statements of various persons are recorded, including the officials of the Municipal Corporation, which show that the present applicant, who was dealing with the clearing of the pension bills, has misappropriated the said amount and transferred the amount in the accounts of various persons, who are neither employees nor pensioners. It reveals that out of the list, 43 persons are found to whom the amount of Rs. 75,33,061/- was paid by depositing the amount in their bank, and the present applicant has been involved in a misappropriation of Rs. 1,27,26,927/-. Thus, from the statements of the witnesses, the active role of the present applicant is revealed as far as the misappropriation is concerned. Merely because the custodial interrogation is not required and is not sufficient to grant anticipatory bail to the present applicant, it is one of the considerations.

7. Moreover, after going through the investigation papers, it reveals that the custodial interrogation of the present applicant is required, as an investigation is to be carried out, as the manner in which the said fraud is committed as well as the involvement of the other co-

accused. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass the following order:

The criminal application is **rejected** and disposed of.

[URMILA JOSHI-PHALKE, J.]