



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.546 OF 2024

(Gajanan s/o Ramesh Kotlawar 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. F.T. Mirza, Sr. Advocate a/b Mr. A.J. Mirza, Advocate for the
applicant.

Mr. N.B. Jawade, APP for the State.

Mr. S. Singha, Advocate for Assist to Prosecution.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- OCTOBER 14, 2024.

Apprehending the arrest at the hands of police
in connection with Crime No.505/2024 registered with
Police Station Gadchiroli, District Gadchiroli for the
offence punishable under Section 409 of the Indian Penal
Code.

2. The applicant is apprehending arrest at the
hands of police in connection with above said crime as the
crime is registered on the basis of report lodged by
Mullidhar Shankar Bawne who is the In-charge Regional
Manager of Maharashtra Rajya Sahakari Adivasi Vikas
Mahamandal. As per the allegation that while working as
a Regional Manager, the applicant has misappropriated
the food grains which are collected to distribute to the rise
millers as well as he has committed the offence of criminal
breach of trust and caused loss to the Government.

3. Learned Senior Counsel Mr. Mirza for the
applicant submitted that as far as the allegations are

concerned, the applicant while working as a Regional Manager have collected the food grains and he has to obtain Bank guarantees from the various rice millers, which he has not obtained and the said Bank guarantees are released without accounting the same and thereby he has committed a criminal breach of trust. He invited my attention towards the documents which show that the informant himself has issued a letter contending that the Bank guarantees issued by the eight rice millers are verified and the period of the same is also mentioned. Only the Bank guarantee by M/s. Narayan Agro Industries situated at Ramanujpur @ Karim Nagar, Telangana was not verified as it is, at a long distance. Thus, he submitted that this fact itself falsifies the allegations made in the FIR. He also invited my attention towards the initial report lodged by the informant and after investigation, the Investigating Officer submitted the report showing that no such loss was caused the Government, and therefore, no action was taken against the present applicant. He submitted that considering the entire investigation papers as well as the allegations, no offence is made out against the present applicant.

4. *Per contra*, learned APP and learned Counsel for the complainant strongly opposed the said application and submitted that with the similar *modus operandi* the applicant has released the Bank guarantees and caused the loss to the Government, therefore, his custodial interrogation is required. In view of that, the application

deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the entire investigation papers from which it reveals that as far as the Bank guarantee is concerned the investigation papers show that it was verified by the present informant himself and he himself has issued the letter that except the Bank guarantee by M/s. Narayan Agro Industries other are verified and found to be correct. As far as misappropriation of the property or the entrustment is concerned, there is no material to show that the said property was entrusted with the present applicant, therefore, the application of Section 409 itself is doubtful. As far as the custodial interrogation of the present applicant is concerned which is not required. In view of that, the interim protection granted to the present applicant deserves to be confirmed.

6. Hence, the application is allowed. The interim protection granted to the present applicant vide order dated 12/09/2024 is hereby confirmed on the same terms and conditions.

7. The applicant shall attend the concerned police station once in a week i.e. on every Monday between 10.00 a.m. and 1.00 p.m. and shall cooperate with the investigating agency.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)