



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 646 OF 2025

Sanjay S/o Kashinathrao Pathak
Age : 53 years, Occupation : Service,
R/o. Ramkrushna Nagar, Parbhani,
At present Panchayat Samiti Vasahat,
Purna, Taluka Purna,
District Parbhani.

... Applicant

Versus

The State of Maharashtra
Through Purna Police Station,
Taluka Purna, District Parbhani.

... Respondent

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Mr. V. D. Sapkal, Senior Advocate a/w Mr. Y. A. Jadhav, Advocate
i/by Mr. S. T. Chalikwar for the Applicant.
Mr. N. D. Batule, APP for Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 23.04.2025

Pronounced on : 24.04.2025

ORDER :

1. Applicant seeks enlargement on regular bail on account of his arrest in crime no. 0004 of 2025 registered at Purna Police Station, District Parbhani for offences punishable under Sections 420, 409, 467, 468, 471 r/w 34 of IPC.

2. Senior counsel Mr. V. D. Sapkal pointed out that applicant is arrested in above crime on 08.01.2025. He is a Government Servant. He was working as Assistant Account Officer. He pointed out that alleged offence was detected in Purna Panchayat Samiti. He further pointed out that there are allegations of misappropriation of funds to the tune of Rs.1,83,77,844/-. However, according to learned senior counsel, there is a system of functioning and clearing bills. That, bills are generated at the table of main accused Manchak Bhise, who was Senior Accountant. After he verifies and tenders signature, file reaches the table of present applicant, who was working as Assistant Account Officer, and after him, the file travels to BDO, who clears the bill and issues cheques.

3. Learned senior counsel strenuously submitted that entire fraud is committed by main accused, who has prepared the bills. That, even clearing and finalizing authority is the BDO. It is he who has lodged the report, but he was subsequently made accused. Such superior officer, who issued cheques, is granted anticipatory bail. Other accused are also granted anticipatory bail. That, except present applicant, all are beneficiaries of bail. Learned senior counsel submitted that applicant has not signed a single bill which was alleged used for misappropriating funds. He further pointed out that

applicant is behind bars since almost three months. Charge sheet is filed in March 2025 itself. Therefore, investigation is over. Investigation pertains to documentary evidence. Learned senior counsel further submitted that moreover, case is triable by learned J.M.F.C and for above reasons, learned senior counsel urges for grant of bail.

4. Learned APP strongly opposed on the ground that applicant has played active role. He is also signatory to 26 bills. He pointed out that 16 bills are yet to be traced. That, misappropriation of pension funds is committed which is a corpus created on public money. Crime involves offence of Section 409 IPC which provides for imprisonment for life. Therefore, according to learned APP, in view of judgment of the Hon'ble Apex Court in the case of *Tarun Kumar v. Assistant Director, Directorate of Enforcement* [AIR 2024 SC 169], persons involved in crimes of such nature do not deserve bail. For all above reasons, he opposes bail application.

5. Heard. Perused the FIR dated 07.01.2025 at the instance of one Mayurkumar, who was working as BDO. Translated version of the relevant portion of the FIR (as provided by the Senior Translator at the establishment of this Bench) is as under :

“While we were engaged in official duties at our office on 14/0/2023, Mr. M.B. Bhise, a Senior Assistant (Accounts) in the Accounts Department, presented documents for approval of a gratuity payment commutation of Mr. Prabhakar Shankarrao Bhosale, a retired Center Head. Upon scrutiny of the said documents, it was observed that the payment in question was duplicated and fabricated. Subsequently, we conducted an inquiry with the Bank of Maharashtra, Purna Branch, and confirmed that the said payment had already been processed earlier. Furthermore, it came to our notice that the account number mentioned in the payment belonged to a third party. Upon further investigation into the account, it was revealed that payments had previously been made from this office to the same account. Given the serious nature of this matter and the possibility of misappropriation of government funds by misleading the Head of the Office, we informed the Honourable Chief Executive Officer, Zilla Parishad, Parbhani, vide our office letter bearing Outward No. 690/2023 dated 09/10/2023, requesting an inquiry into the records of the Accounts Department. In response, the Honourable Chief Executive Officer, Zilla Parishad, Parbhani, vide their office letter bearing Outward No. Z.P./G.A.D/Desk-3/A.D/525/23 dated 12/12/2023, directed the formation of a three-member committee to propose administrative action against all individuals responsible for the misappropriation. The three-member

committee conducted an inquiry as per the directive and submitted a detailed investigation report vide their office letter bearing Outward No. Zilla Parishad/C.D/D/808/2024, Women and Child Development Department, Zilla Parishad, Parbhani, dated 27/09/2024, to the Honourable Chief Executive Officer, Zilla Parishad, Parbhani. In the said investigation report, it is revealed that between October 2021 and May 2023, a total of ₹1,83,77,844/- (One crore, Eighty-Three lakh, Seventy-Seven Thousand, Eight Hundred Forty-Four rupees) government funds was misappropriated at the Purna Panchayat Samiti. Of this, the misappropriation for the period 2021–2022 is detailed as follows.....”

6. In this case, statement is made across the bar that informant BDO, who set law into motion, who was later arraigned as an accused, is already beneficiary of anticipatory bail. Present applicant is shown as accused no. 2. Main accused is said to be Manchak Bhise and bills are said to be generated at his instance and which are subsequently allegedly signed by present applicant and thereafter by informant BDO.

7. As stated, investigation pertains to documentary evidence. Learned APP has opposed on the ground that there is active involvement and applicant's signatures are on the bills and moreover,

16 bills are yet to be traced. On Court query, learned APP submitted that sample signature of the applicant is already obtained and it has been further forwarded to the expert, but according to him, expert's opinion is yet to be received. Therefore, there is uncertainty over the same. Secondly, on Court query as to whether there is any evidence suggesting applicant to have received any monetary benefits out of the alleged misappropriation, learned APP fairly submitted that there is no such evidence in the charge sheet at least, about applicant to be beneficiary of any misappropriated amount.

8. Now investigation is over. What is further to be recovered or discovered is not made known. What purpose would be further achieved is also not made known, except stating that 16 bills are still not traced. However, alleged fraud pertains to documentary evidence which is already in the office and investigating machinery is free to trace the same. It is not the case that said record was taken by applicant in his own custody. In the light of above discussion, relief as prayed deserves to be granted. Hence, I proceed to pass the following order:

ORDER

I. The application is allowed.

II. Applicant be released on bail in connection with Crime No. crime no. 0004 of 2025 registered at Purna Police Station, District Parbhani, on executing Personal Bond of Rs. 25,000/- with one surety in the like amount, on the following conditions:

[a] The applicant shall not tamper prosecution evidence.

[b] The applicant shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.

[c] The applicant shall attend the concerned police station twice in every week i.e. on every Monday and Thursday between 11.00 a.m. to 02.00 p.m. till framing of charge and thereafter, shall regularly attend each and every effective date before the trial court.

[ABHAY S. WAGHWASE, J.]

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