



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**935 ANTICIPATORY BAIL APPLICATION NO. 2212 OF 2024
KISHOR MALAYYA SANDREE
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant :
Mr. Namde Abhijit D. a/w. Ms. Yugandhara Abhijit Namde
APP for Respondent/State: Mr. A. A. A. Khan

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**CORAM : ARUN R. PEDNEKER, J.
DATE : 05.03.2025**

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 Crime No.0451/2024, dated 10.09.2024, registered at Vajirabad Police Station, District Nanded, for the offence punishable under Section 409 of the Indian Penal Code.

3] This court by order dated 07.02.2025 granted interim protection to the applicant noting submissions and reasons at paras 3 ,4, 5 and 6, as under:

“3] The FIR is registered against the applicant contending therein that certain amounts were made available to the applicant i.e. Rs.150,000/- X 2 = Rs.3,00,000/- for the purpose of distribution of

Scarcity of Water Supply for spending the amounts in the drought areas for the purpose of making water available to the concern villagers. The amounts were disbursed before 05.03.2021, thereafter, another Rs.4,00,000/- were credited on 30.03.2021 with the account of Deputy Executive Engineer. The applicant was a concern person holding the charge of Deputy Executive Engineer. It is also stated that once the amounts are disbursed, it is the duty of the applicant to submit the details of the disbursement along with the vouchers. However, it is stated that the applicant has not given or produced the vouchers or the details of the expenditure. He has embezzled the amounts and accordingly, FIR is registered against him in this case.

4] The learned counsel for the applicant submits that the applicant has retired on 31.10.2023. He has been transferred from the post in August 2021 to another place. The learned counsel for the applicant submits that the statement of expenditure incurred for the above amounts has been forwarded to the concern department and the receipts for the same are also available with the department. She submits that the show cause notices were issued to him and the notices were addressed to him on different addresses, but not on the present address. As such, there was no response to the show cause notice. She further submits that the entire record is available with the department and in absence of the record shown to him, it is not possible to respond to the allegation of disbursement of the amount. The said amount is disbursed to the various labourers and other persons involved in the survey of the said village. She submits that in absence of the said Sanchika, it is not possible to point out how and in what manner, the amount had been disbursed and after continuous follow up from the department, the records were not made available to the applicant.

5] Per contra, the learned APP submits that the entire amounts are transferred on tender basis and the payments are made on cash, which has to be made by digital payment or through cheque and not to be transferred by the cash.

6] Considering the prima-facie submission, there is no material against the applicant to indicate as the transfer has to be by cheque. Prima-facie submission of the learned counsel for the applicant is accepted the learned APP to produce any record or order to indicate that the transfer has to be made by the cheque. Considering this aspect of the matter, interim protection is granted to the applicant.”

4] The learned counsel for the applicant submits that after the interim order dated 07.02.2025, the applicant has attended the concerned police station on the given dates as directed by this court.

5] The learned APP submits that, although, the applicant has attended the concerned police station he has not cooperated with the investigation as the applicant is not able to give any instructions as to how the amounts were disbursed to various labourers and other persons.

The learned counsel for the applicant submits that in absence of the record from the Zilla Parishad the applicant is not able to answer the questions raised. All the vouchers are with the Zilla Parishad.

6] In the instant case, the evidence is of documentary nature and the same is available with the Zilla Parishad, thus, no further custodial interrogation of the applicant is necessary. So also, for the reasons recorded in the order dated 07.02.2025, as above, the interim protection granted earlier by this court can be confirmed.

7] In view of the above, the interim protection granted by order dated 07.02.2025 stands confirmed, on the following terms:

i] The applicant shall attend the police station as and when required by the Investigating Officer.

ii] 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.

iii] The applicant shall co-operate with the investigation and also in the proceedings before the trial Court.

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

9] 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.

10] The application stands disposed of.

[ARUN R. PEDNEKER]
JUDGE