



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

CRIMINAL WRIT PETITION NO. 507 OF 2025

Kuldeep S/o Kalidas Kamble

-- VERSUS --

State of Maharashtra

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

Court's or Judge's orders.

Mr. B.Thomas, Advocate for the Petitioner.

Mr. A.M. Joshi, A.P.P. for the Respondent/State.

CORAM : M.M. NERLIKAR, J.

DATE : NOVEMBER 27, 2025.

Heard the learned counsel for the petitioner and the learned A.P.P. for the respondent.

2. The petitioner challenges the order dated 04/02/2022 passed by the Judicial Magistrate First Class, Malegaon, and the order dated 24/05/2024 passed by the Ad-hoc District Judge-1 and A.S.J. Washim, wherein the application as well as the revision application of the petitioner was rejected by both the Courts below, wherein prayer was made for discharge of present petitioner. The First Information Report bearing No.578/2020 was registered by the Extension Officer, Panchayat Samiti, Malegaon, alleging that there was misappropriation of funds in various works done at the Gram Panchayat, Bramhanwada, which falls under

Malegaon Panchayat Samiti. After investigation, charge-sheet was filed and Investigating Officer has stated in Summary of the charge-sheet that during the year 2017-18 and 2018-19 under the Mahatma Gandhi Rural Employment Guarantee Scheme various works were implemented in the Bramhanwada Gram Panchayat and during the said period misappropriation of more than Rs.69 lakhs had taken place. The charge-sheet further shows that various officers were held responsible for this misappropriation and during enquiry by the concerned Department it was found that the works were done through private contractor and by machines. Though, these works were done through machines as well as by contractor, the bills were drawn on in the name of persons including child labourers. A detailed enquiry was conducted by the Tahsildar and enquiry report was submitted wherein the name of petitioner can be seen. After conducting an enquiry, F.I.R. was lodged, and accordingly, the Investigation was carried out. During investigation, it was found that the funds for 100 works to the tune of Rs.69,85,000/- under the Mahatma Gandhi Employment Guarantee Act for the period 2017-18 and 2018-19 has been misappropriated by the persons including the present petitioner. The petitioner has filed an application below Exh.81 for discharge under Section 239 of Cr.P.C. The

application was rejected by the Judicial Magistrate First Class holding that the accused persons have misappropriated huge government amount in the works carried out by the Panchayat Samiti, Malegaon, under the Mahatma Gandhi Employment Guarantee Scheme. It is further observed that no separate role of each accused can be decided at this stage when there is misappropriation by all the accused persons.

3. It further reflects that the enquiry report was taken into consideration wherein the role of the present petitioner has surfaced and the Court observed that this fact cannot be ignored at the primary stage of framing of charge, and accordingly, the application was rejected. The petitioner preferred Revision against the said rejection before the Ad-hoc District Judge-1 and A.S.J. Washim, wherein the Court has observed that there was misappropriation of Rs.69,85,000/-. There are many persons namely, Manik Sahebrao Ghuge, Gajanan Kisan Ghuge, Savitribai Ramesh Ghuge, etc, who shown to have taken benefits of the scheme for construction of lavatories. Benefits of the scheme were given to those who had not applied, or even built lavatories through scheme, therefore, the said amount was misappropriated by all the accused persons. It further appears from the order that the petitioner was Probationary Block Development Officer, Panchayat

Samiti, Malegaon, and letter dated 01/11/2019 was issued by the Assistant Collector, Employment Guarantee Scheme, Branch Washim addressing to the District Superintendent of Police, Washim, wherein it was contended that the petitioner is the Probationary Block Development Officer and *prima facie* he is not responsible for the observations of the said office.

4. The learned counsel appearing for the petitioner submits that the petitioner had worked from 21/02/2019 to 28/03/2019, i.e., only for 24 days as Probationary Block Development Officer and has no concern with the alleged misappropriation of amount. He has only signed muster which has already been prepared by other authority and his superior officers had already signed the said muster. He has no role to play in the implementation of the work, or sanction of work, and therefore, he submits that there is no material in the entire charge-sheet.

5. On the other hand, learned A.P.P. submits that during the period when the petitioner worked, Rs.10,84,020/- was released. The chart which is annexed with the reply as Annexure R-2 goes to show that this amount was released in pursuance to 23 muster rolls, however, those muster rolls were not available in the documents during the enquiry. It further shows that out of these 23 muster

rolls, muster roll No.10518, 11019 and 11191 were not found in the entire record, however, in the attendance register few persons, namely, Vaibhav Gopichand Munde and Vivek Ganesh Ghuge are shown and the amount was shown to be transferred to their accounts, however, those labourers were found as child labourers. He further invited my attention to the enquiry report which is part of the charge-sheet, wherein, there are serious allegations made against all the accused persons, those are responsible for the said scheme. Lastly, he submits that *prima facie* there is material on record to connect the present petitioner with the crime as he was part and parcel of the entire scheme though he only worked for 24 days, and accordingly, prayed to reject the application.

6. Upon hearing the learned counsel for the petitioner as well as the learned A.P.P., it appears from the record that there was misappropriation of Rs.69,85,000/- in implementing the work at Gram Panchayat Bramhanwada in the Malegaon Panchayat Samiti. These works are to be implemented under the scheme of Mahatma Gandhi National Rural Employment Guarantee, for the sake of brevity it is called as 'scheme'. The said scheme was implemented during the period 2017-18 and 2018-19. Admittedly, the petitioner had worked for 24 days during the

period from 21/02/2019 to 28/03/2019 as Probationary Block Development Officer. It further appears that through this scheme various works are to be implemented. As could be gathered from the enquiry report and the documentary evidence collected by the Investigating Officer that for implementation of this scheme, private contractors have been appointed and amount was released. Though amount was shown to be released in the name of labourers, however, *prima facie*, it appears that the works were done through contractor. It further appears that when the works were to be implemented through labourers, those works are done through machines. The record further reveals that, despite the work being shown as completed on paper, the works are in fact incomplete. Also, though work was not done by labourers, still the amount was released on their names, and on paper the lavatory was shown to have been constructed. All these allegations appears to be serious in nature. When the Department has conducted a detailed enquiry, it was found that during the period when the petitioner worked Rs.10,84,020/- was released. The record *prima facie* shows that there is sufficient material to frame charge as could be gathered from the allegations in the FIR and the enquiry report. The enquiry report would suggest that for strengthening, out of 11 works, 3 works were shown as incomplete

and 5 works were shown as complete. For these 8 works, Rs.46,86,000/- was shown to be disbursed. It further shows that for these 8 works, 60 muster rolls are prepared and on these 60 muster rolls, 23083 man hours working days are shown. However, during the enquiry not a single application of the labourer was placed before the enquiry committee by the concerned officer to show that pursuant to scheme they have applied to give work, and therefore, the enquiry report includes the name of the present petitioner in the array of responsible officers. This is only one example.

7. Similarly so far as the farm pound is concerned, even 9 works were shown to be done out of which 4 works were shown as complete and 5 works were shown as incomplete and total amount distributed for these works is Rs.24,37,000/-. Even for these 9 works, 25 muster rolls were prepared and in these 25 muster rolls 11,995 man hours working days were shown. However, even for this, not a single application from any of the persons who have undertaken the work has been placed on the record by the concerned officers including the petitioner. Therefore, *prima facie*, it appears that it is a systematic organized crime committed by the petitioner along with others. The very purpose of implementing the scheme is frustrated, which is to

give employment to the needy, poor, labourers, etc. This aspect cannot be ignored though the petitioner has worked only for 24 days, but the fact remains that during his tenure more than 10 Lakh rupees were released. Under such circumstances, *prima facie*, there are serious allegations. The role at present cannot be bifurcated or separated from other accused persons, and therefore, the petition is devoid of merit.

8. The learned counsel appearing for the petitioner relied on the judgment of the Madras High Court in the case of *N.G. Kamalarajan VS The State of Tamil Nadu*, decided on 15/04/2025, wherein identical issue was considered, the accused, Kamalarajan, worked for limited period as Block Development Officer, wherein after considering the material on record the Madras High Court has discharged the accused. Here in present case, whatever facts has surfaced on record as has been observed by this Court, and therefore, after finding *prima facie* case against the petitioner, the conclusions are drawn. The said judgment is not applicable to the present case. Hence, the Criminal Writ Petition is **dismissed**.

[M.M. NERLIKAR, J]