



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

CRIMINAL APPLICATION (ABA) NO.788 OF 2024

Sanjay s/o Sadharam Wadhwani

Vs.

The State of Maharashtra, Through Police Station Officer, Police Station,
Yavatmal City, District Yavatmal

AND

CRIMINAL APPLICATION (ABA) NO.789 OF 2024

Sadharam Patladhamaal Wadhwani

Vs.

The State of Maharashtra, Through Police Station Officer, Police Station,
Yavatmal City, District Yavatmal

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

Court's or Judge's Order

Mr. S. V. Manohar, Senior Counsel a/b Mr. Atharva S. Manohar, counsel for the applicants.

Mrs. Swati Kolhe, APP for non-applicant/ State in ABA No.788/2024.

Mrs. S.S. Dhote, APP for non-applicant /State in ABA No.789/2024.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 28/01/2025.

1. Present applications are filed by the applicants namely Sanjay s/o Sadharam Wadhwani and his father Sadharam Patladhamaal Wadhwani for grant of pre-arrest bail in connection with Crime No.494/2024 for the offences punishable under Sections 409, 420 and 120-B read with Section 34 of the Indian Penal Code and under Section 105 of the Maharashtra Cooperative Societies Act, 1960, registered at Police Station, Yavatmal, Taluka and District Yavatmal.

2. The crime is registered on the basis of a report lodged by Dharmraj Vasantrao Patil, who is the Deputy Registrar of Cooperative Societies. It is alleged that Yavatmal

Zilla Kukkutpalan Sahakari Sanstha is a cooperative society registered under the Cooperative Societies Act. The said Society has obtained the loan, but the same was not repaid, and therefore, the liquidator was appointed. The liquidator was a custodian of the entire property owned by the same Kukkutpalan Sahakari Sanstha as well as the record. The liquidator has issued notice for the sale of the property, and tender was called. It is alleged that while publishing the tender, he has quoted a lesser amount as the consideration amount of the said property, i.e. agricultural property Gut No. 200/2, admeasuring 5.19 Hectors. The present applicants have responded to the said tender and applied for the same by following due procedure. It is alleged that present applicants and the officials of the said Yavatmal Zilla Kukkutpalan Sahakari Sanstha, in connivance with each other, showed the lesser amount in the tender, and without obtaining the proper permission, said tender was called, and the attempt was made to sell of the said property to the present applicants, and the present applicants are the beneficiaries of the said tender. On the basis of the said report, the police have registered the crime against the present applicants.

3. Heard learned Senior Counsel Mr. S. V. Manohar for the applicants, who submitted that as far as the role of the present applicants is concerned, which is only to the extent that in response to the tender notice, they have applied for the tender and deposited the amount as against the said tender. As far as the allegation regarding the connivance with the officials of the said cooperative society is concerned, there is no

material to connect the present applicants to show that they were aware of the fact that there was no proper permission obtained by the officials from the government, and without obtaining the permission, the attempt was made to sell the property. He submitted that the role attributed to the present applicants is only to the extent that e-tender process was published on the portal of GEM, present applicants have responded for the same and also deposited the amount.

4. He also invited my attention towards the valuation report and submitted that as per the said valuation report, the valuation of the said property is Rs. 10 Crores 90 Lakhs. As per the ready reckoner, the valuation of the property is Rs.6,32,84,700/-. The tender amount quoted was Rs.10 Crores 80 Lakhs. So, as per the valuation report, also the amount quoted in the said tender notice was properly quoted. He submitted that even accepting the allegation as it is, the entire allegations are levelled against the officials of the said Kukkutpalan Sanstha and not against the present applicants. As far as the knowledge of the present applicants is concerned, that which is alleged, there is no reason for the present applicants to have the knowledge of whether the concerned officials have obtained the proper permissions or not. He submitted that at the time of issuing the tender, there was prior approval, but the subsequent approval was obtained after the tender process was executed.

5. Thus, he submitted that considering the entire material, the only roles attributed to the present applicants are

that they have applied for the tender, deposited the amount, and the tender was issued in their favour. As far as the other procedure is concerned, the applicants are not at all concerned with the same. In view of that, they be protected by granting anticipatory bail.

6. Learned APP in both the applications invited my attention towards the investigation papers and submitted that the present applicants were having knowledge that there was no proper permission obtained and then also they entered into an agreement to purchase the said property by applying for tender, and thus, they are beneficiaries, and therefore, their custodial interrogation is required.

7. Learned APP further invited my attention towards the statement of the co-accused and submitted that after this transaction, the co-accused has received an amount of Rs. 5 Crores from the present applicants. Thus, considering the act on the part of the present applicants, the application deserves to be rejected.

8. After hearing both sides and on perusal of the entire recitals of the FIR as well as the order of the Additional Sessions Judge and the reply filed by the prosecution before the Sessions Judge as well as before this Court, it reveals that the tender notice was issued by the Yavatmal Kukkutpalan Sahakari Sanstha. The present Sanstha, the present applicants, have responded to the said tender notice, deposited the earnest amount, and followed the procedure, and thereafter, the tender was issued in their favour. As far as the entire procedure

adopted by the officials of the Sanstha is concerned, whether it was legal or illegal, the responsibility is of the officials to follow the proper procedures and not on the present applicants. As far as the knowledge of the present applicants regarding whether officials of the said Sanstha have obtained the permission or not, there is absolutely no evidence collected by the investigating officer to show that despite having knowledge, the applicants have accepted the tender and paid the earnest amount and shown their intention to purchase the said property. In fact, the present applicants have also deposited the amount which was quoted in the said tender. The valuation reports, which are placed on record, show that the valuation as per the ready reckoner is Rs. 6,32,84,700/-. (Rs. Six Crores Thirty Two Lakhs Eighty Four Thousand Seven Hundred only). As per the valuation report, the valuation of the said property, as per the market rate, is Rs. 10, 90,000/- and the tender amount that was quoted was Rs. 10,80,000/-. As per the said tender amount, the earnest amount is already deposited by the present applicants. Thus, considering the entire allegations against the present applicants, the only allegation is that knowingly, they have entered into the transaction, though the valuation of the property was more than it is shown in the tender notice. As far as this knowledge is concerned, admittedly there is no material collected by the investigation to show that knowingly the applicants have entered into the transactions. As far as their custodial interrogation is concerned, the entire documents are already collected by the investigating officer during the investigations,

and other parts of the interrogation are concerned, which can be taken care of by imposing certain conditions on the present applicants. In view of that, the interim protection deserves to be confirmed. Accordingly, I proceed to pass following order:

ORDER

- a] In the event of arrest in connection with Crime No.494/2024 registered with Police Station Yavatmal City, District Yavatmal for the offences punishable under Sections 409, 420 and 120-B read with Section 34 of the Indian Penal Code and under Section 105 of the Maharashtra Cooperative Societies Act, 1960, the applicants **Sanjay s/o Sadhuram Wadhwani and Sadhuram Patladhamaal Wadhwani** shall be released on anticipatory bail on executing P.R.Bond of Rs.50,000/- each with one solvent surety in the like amount.
- b] The applicants shall attend the concerned Police Station twice in a week on Monday and Thursday between 10.00 a.m. to 1.00 p.m. till investigation is completed, and shall cooperate with the investigating agency.
- c] The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

- d] The applicants shall not leave the jurisdiction of the Yavatmal District without prior permission of the District Judge – 1 and Additional Sessions Judge, Yavatmal.
 - e] The applicants shall surrender their passports before the investigating agency, till further orders.
8. The criminal applications are **disposed of**.

[URMILA JOSHI-PHALKE, J.]