

Cri. Misc. (Bail) Application No. 338 of 2022*Pankaj Ramesh Nagrale Vs. The State***With****Cri. Misc. (Bail) Application No. 343 of 2022***Uttam Lahanu Jondhale Vs. The State***With****Cri. Misc. (Bail) Application No. 395 of 2022***Raghunath Nana Shinde Vs. The State***Common Order Below Exh.1.****(Passed on 8th November 2022)**

1) Applicants / accused Pankaj Ramesh Nagarale, resident of HUDCO Colony, Pandurang Nagar, Yeola, Tal. Yeola, Dist. Nashik, Uttam Lahanu Jondhale and Raghunath Nana Shinde, both resident of Murmi, Tal. Yeola, Dist. Nashik are arrested in connection with Crime No. 118/2019 registered at Yeola Taluka Police Station against them for the offences punishable under Secs. 420, 467, 468, 471, 409 r.w. 34 of I.P.C. The applicants have filed present applications for bail under Sec.439 of the Cr.P.C. after filing of charge-sheet.

2) It is the case of prosecution that informant Shaikh Ansar Akbar working as BDO at Panchayat Samiti, Yeola lodged complaint with Yeola Taluka police station on 26/03/2019 stating therein that Shri. B.K. Ahire and Shri. V.K. Patil have filed inquiry report dated 27/05/2019 in respect of corruption and misappropriation in the implementation of Schemes of Maharashtra Rural Rojgar Hami Yojana at Grampanchayat,

Murmi, Tal. Yeola. Pankaj Ramesh Nagrale is the Technical Officer of Maharashtra Gramin Rojgar Hami Yojana. Uttam Lahanu Jondhale is servant of said Scheme and Raghunath Nana Shinde was Sarpanch of village Murmi. The State Government sanctioned various development works worth Rs.41,13,763/- for village Murmi during the period 2016 to 2019. The accused persons were responsible for carrying out the said development work but in further of their common intention, the accused persons did not carry out any development work sanctioned by the State Government. However, they prepared fabricated Muster Roll of labours and false worth completion certificates. The accused persons have withdrawn amount of Rs.41,13,763/- by showing false completion certificates and thus, they have misappropriated aforesaid amount which is a public money. On the basis of the said complaint above-said crime came to be registered against accused persons at Yeola Taluka police station.

3) Learned Advocates for the applicants submitted that all the allegations against the accused persons are false. Crime is registered against present accused / applicants on the basis of false report. There is inordinate delay in lodging the FIR. The accused persons are in jail since 06/05/2022. Investigation of the crime is completed. Charge-sheet has been filed against accused persons. Further detention of the accused / applicants behind the bars will amount to pre-trial conviction. The accused are ready to abide conditions of bail. Therefore, he prayed to grant the application.

4) On the other hand, learned A.P.P. resisted the applications on the ground that the accused have committed serious offence of cheating

and forgery. Huge public money is involved in the crime. Said amount is not yet recovered. Charge has been framed against the applicants / accused by the trial Court and the prosecution is ready to expedite the trial. The accused have committed present crime in collusion with each other. The accused persons are influential persons. There is every possibility that the accused may tamper with the prosecution evidence, if released on bail. Learned APP for the State also submitted that the accused have committed offences punishable under section 409, 467 of the IPC. Punishment of imprisonment of life is provided for the said offences and therefore the accused are not entitled to be released on bail. Therefore, considering the seriousness and gravity of the crime, he prayed to reject the application.

5) Upon hearing the learned Advocates and on perusal of the documents on record it appears that, the present applicants have committed white collar crime in collusion with each other. They have committed offence of cheating and forgery in respect of public money. Huge public amount involved in the crime is not yet recovered. The accused persons have prepared false and forged documents have withdrawn the amounts and misappropriated the same for their personal use. It appears that strong prima facie case is made out by the prosecution against the accused persons.

6) There is no substance in the arguments of learned advocate for the accused that false complaint is lodged against accused persons on the basis of false report, informant Shaikh Ansar Akbar is also a Government Servant working as BDO at Yeola Panchayat Samiti. He has no personal interest in the matter. Therefore, it is not believable that he

has filed false complaint against accused persons. After making inquiry and on the basis of documents the informant came to the conclusion that the accused persons have misappropriated Government money without carrying out development works and withdrawing the amounts by producing false and forged documents. Prosecution has made out a strong prima facie case against the accused / applicant.

7) From the perusal of record it appears that the accused are influential persons. They have committed the economic crime in collusion with other accused persons. therefore, there is every possibility that the accused may tamper with the prosecution evidence, if released on bail. Apex court has ruled in many cases that, bail may be refused if there is likelihood of the applicant interfering with witnesses for the prosecution or otherwise polluting the process of justice.

8) Learned advocate for the applicant placed his reliance of judgments of Hon'ble Apex Court in the case of **Yasar Yakub Kapadia Vs. State of Maharashtra – 2021 (2) Crimes 354 (SC)**. I have gone through the said judgment. It appears that facts of that case are different than the case in hand. In that case, co-accused were already released on bail. The applicant / accused was in custody for over 2 years and the trial is likely to take time, on that grounds, the accused was released on bail. In the present case, all the arrested accused are in custody. Charge has been framed against them and trial is commenced. Therefore, trial is not likely to take time. Therefore, the said judgment are not useful for the accused in the light of facts and circumstances of the case in hand. Learned Advocate for the accused further relied on the decision of Hon'ble Apex Court in the case of **Prabhakar Tiwari Vs. State of U.P. - 2020 (1)**

Acquittal 13 (SC), wherein it is held that bail cannot be refused only on the ground that offence alleged is grave and serious. Similar observations are made by the Hon'ble Apex Court in the case of **Seema Singh Vs. C.B.I. - 2018 (1) Acquittal 600 (SC)**. But ratio laid down in these cases is not applicable in the present case for the simple reason that strong prima facie case is made out by the prosecution against present applicants / accused. Huge public amount is involved in the crime which is not yet recovered. The accused are influential persons and they may tamper with the prosecution evidence if released on bail. Offence punishable U/Sec. 409, 467 of the IPC are made out and imprisonment of life is provided for the said offence. There is ample documentary evidence against the accused in support of the charges. There is possibility of interference with witnesses and, therefore, ratio laid down in above said judgments are not applicable in the present case.

9) A feeling would gain ground in the citizenry that persons, like the applicant can commit the most outrageous acts and yet would be dealt softly by Courts. That indeed would be distressing. Larger the most interest of the society is also to be considered while deciding such applications. Under these circumstances smooth and uninterrupted trial is necessary. Considering the peculiar circumstances, I am of the opinion that as the accused is an influential person he may obstruct the trial and may tamper with the prosecution evidence. I, therefore, find that application is devoid of merits. In the result, I pass the following order.

ORDER

1] Applications stands rejected.

- 2] Intimation to Yeola Taluka Police Station.
- 3] Copy of this order be kept in Criminal Misc. (Bail)
Applicant Nos. 343 of 2022 and 395 of 2022.

(Dictated and pronounced in open Court.)

Date : 08/11/2022.

Sd/-
(**A.V. Gujarathi**)
Additional Sessions Judge,
Niphad.