

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO. 1895 OF 2023
WITH
INTERIM APPLICATION NO. 4011 OF 2023**

Anwar Jamal Ahmed IFS (Retd) ...Applicant
 vs.
 The State of Maharashtra ...Respondent

Mr. Ashok Mundargi – Senior Advocate a/w Ms. Shilpa Joshi i/by Mr. Vikas Kapile	Advocates for Applicant
Mr. H. S. Venegavkar – PP and Mr. V. N. Sagare – APP	For Respondent- State

CORAM : S. M. MODAK, J.

DATE : 03rd MAY 2024

P. C. :-

1. Heard learned Senior Advocate Shri Mundargi.
2. According to him, the duration of the offence is 2015-16, 2016-17, 2017-18. Whereas his client worked as Conservator of Forest from 05/08/2015 to 19/08/2016 and for 41 days in 2017.
3. He invited my attention to the following documents:
 - (i) F.I.R. - at Page no. 137

- (ii) Letter by Tribal ministry dated 09/11/2017, directing to make available grant for Rs. 21.60 crores, at page no. 28.
- (iii) Notification dated 10th March 2016 issued by the tribal department, thereby authorizing Chief Conservator of the Forest as Competent authority, at page number 32.
- (iv) Letter dated 9th March 2016, thereby relaxing the grant, at page number 33.
- (v) Guidelines for making payment and maintaining the account, at page number 31.
- (vi) Notification dated 31st January 2013 issued by the Finance department, thereby mandating payment above Rs. 5,000/- directly in the account of the beneficiary, at page no. 51.
- (vii) Letter by Chief Conservator of Forest dated 17th August 2015, thereby informing merger of the Social forestry and forest department, at page no. 41.
- (viii) Direction dated 17th September 2016 for formation of three officers for cross-checking of the work, at page no. 43.
- (ix) The inquiry report dated 13/06/2022 given by additional Chief Conservator of the Forest to Chief Conservator of the Forest, at

page no. 74.

(x) The guidelines given in the meeting dated 07/07/2021 and 10/11/2021 about manner of the conducting an inquiry, at page no. 90.

(xi) The relevant paragraphs from the report making imputation against the present Applicant, the only allegation is the documents for disbursal of the grant are not traceable at page no. 143.

(xii) Pension rules at page no. 143.

(xiii) The notification thereby prescribing life span for different works, at page no. 148.

(xiv) The letter by Conservator of the Forest expressing difficulty to carry out the measurement work for want of the staff dated 16/04/2021, at Page no. 158.

4. Learned Public Prosecutor Mr. Venegavkar is going to give common reply.

5. Stand over to 14th June 2024, at 2.30 p.m..

**ALONGWITH
ANTICIPATORY BAIL APPLICATION NO. 1990 OF 2023**

Kishor Devram Thakare

...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Akhilesh Dubey a/w Gauri Joglekar, Bharat Thakare, Mr. Shama Shekh i/by Meraki Legal	Advocate for Applicant
Mr. H. S. Venegavkar – PP and Mr. V. N. Sagare – APP	For Respondent- State

6. Heard learned Advocate for the Applicant.
7. According to him, he was holding same post as that of the Applicant-Anwar Jamal Ahmed. The only duration was different.
8. He made following submissions:-
 - (i) The allegations against his client is about not informing the higher officials about disbursal of the grant by the tribal department. However, copy of the release of the grant was sent to all higher authorized officials.
 - (ii) There is an allegation that no documents are available for disbursal of the grant. According to him when he has retired long back, how he is expected to search for those documents.
 - (iii) Only he approved opening of an account in the name of the Divisional Forest Officer at Thane but all are cheque transactions.

(iv) He submitted that there is prescribed period/life span for a particular work and all payments above Rs. 5,000/- are made directly in the bank account.

(v) He is suffering from Parkinson disease. Papers are on page no. 85.

9. Stand over to 14th June 2024, at 2.30 p.m..

ALONGWITH

ANTICIPATORY BAIL APPLICATION NO. 1896 OF 2023

Satish Gangadhar Phale

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Dheeraj Mirajkar a/w Mr. Vikas Kapile a/w Ms. Shilpa Joshi	Advocates for Applicant
Mr. H. S. Venegavkar – PP and Mr. V. N. Sagare – APP	For Respondent- State

10. Heard learned Advocate for the Applicant.

11. His client worked as Divisional Forest officer. He made following submissions:

a) when F.I.R. was registered, at that time provision of the Prevention of Corruption Act was not invoked, even though there are allegations.

b) The provision of Section 3 (2)(va) of the Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act are invoked.

However other offences do not fall within the schedule and conspiracy will be applicable, only if there is scheduled offence.

- c) The provision of Section 4 (1) of the Scheduled Castes and Scheduled Tribes (Prevention of Corruption) Act will not be applicable because there can be claim for neglect of the duty only when there is some administrative decision.
- d) As per Section 17-A of the Prevention of Corruption Act prior approval is required for prosecution for taking any decision by public servant. He relied upon observations in case of *Yashwant Sinha and Others Vs. Central Bureau of Investigation through its Director and Another* in Review Petition (Crl.) No. 46 of 2019, dated 14.11.2019.
- e) The team has visited on 04/04/2022 and 13/04/2022, directions were given to give notice. However no notice was given, at page no. 95.
- f) Proposal was sent by Divisional Forest Officer to Conservator of the Forest.
- g) The proposal was sent for opening of the new account, at page no.

131.

- h) Funds are released after his retirement on 31/08/2017.
- i) His house search was taken but nothing incriminating was found.
- j) Notice could have been given, they could have explained it properly.
- k) The letter by Deputy Director Social Forest to State Bank of India Thane for opening new account for the purpose of the administrative exigencies, at page no. 75.
- (l) He cannot be prosecuted for conspiracy for writing this letter dated 04/03/2017.

12. Matter be kept on 14th June 2024, at 2.30 p.m..

ANTICIPATORY BAIL APPLICATION NO. 1988 OF 2023

Sadashiv Ramchandra Jadhav

...Applicant

vs.

The State of Maharashtra

...Respondent

ALONGWITH ANTICIPATORY BAIL APPLICATION NO. 1989 OF 2023

Balu Mithu Dhamake

...Applicant

vs.

The State of Maharashtra

...Respondent

Ms. Gauri Joglekar, Mr. Bharat Thakare, Ms. Shama Shekh i/by Meraki Legal	Advocates for Applicants
Mr. H. S. Venegavkar – PP and Mr. V. N. Sagare – APP	For Respondent- State

**ALONGWITH
ANTICIPATORY BAIL APPLICATION NO. 1969 OF 2023**

Ashok Kumar Purushottam Singh ...Applicant
vs.
The State of Maharashtra ...Respondent

**ALONGWITH
ANTICIPATORY BAIL APPLICATION NO. 1970 OF 2023**

Shirishkumar Vishwanath Rajwade ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Vinay Bhanushali a/w Mr. Sanmit Vaze	Advocates for Applicants
Mr. H. S. Venegavkar – PP and Mr. V. N. Sagare – APP	For Respondent- State

**ALONGWITH
ANTICIPATORY BAIL APPLICATION NO. 2077 OF 2023**

Bhaulal Chhagan Pawar ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Akshay H. Bankar i/by Mr.	Advocate for Applicants
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Madhukar Y. Kale	
Mr. H. S. Venegavkar – PP and Mr. V. N. Sagare – APP	For Respondent- State

13. Now the respective learned Advocates have to argue remaining anticipatory bail applications.

14. In the last week, it is not possible to hear them and learned PP. Even Police are in election duty.

15. There was a condition not to leave territorial limits of State of Maharashtra as per Order dated 13/07/2023. There is a request to relax this condition on behalf of the Applicant in ABA Nos. 1895 of 2023 and 1969 of 2023. It is opposed by learned PP. Because both of them are having permanent resident in Mumbai.

16. I am relaxing that condition because they are native residents from out side Maharashtra, instead of that they should not leave India without permission.

17. Ad-interim relief granted earlier to continue till next date.

18. So let all these matters be kept on **14/06/2024 at 2.30 p.m..**

[S. M. MODAK, J.]