

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**ANTICIPATORY BAIL APPLICATION NO. 792 OF 2011  
WITH  
ANTICIPATORY BAIL APPLICATION NO. 793 OF 2011  
WITH  
ANTICIPATORY BAIL APPLICATION NO. 799 OF 2011**

CRI. A.B.A. NO. 792 OF 2011

Sunil Pundalik Pednekar	..	Applicant (Orig. accused No.2)
vs.		
State of Maharashtra	..	Respondent

CRI. A.B.A. NO. 793 OF 2011

Anant Narayan Pote	..	Applicant (Orig. accused No.10)
vs.		
State of Maharashtra	..	Respondent

CRI. A.B.A. NO. 799 of 2011

Vijay Vththal Vankhede	..	Applicant
vs.		
The State of Maharashtra	..	Respondent

Mr. S.R.Chitnis, Senior Counsel i/b. Mr. Hrishikesh Mundargi, Advocate for the applicant (in ABA No.792/2011) and i/b. Shri Jayant Bordeskar, Advocate for the applicant (in ABA No.793/2011)

Shri Y.S.Shinde, APP, for the respondent – State.

Shri Nilesh Pawaskar, Advocate for the Intervener (in APPP NO.529/2011 in ABA No.792/2011 and APPP No.530/2011 in ABA No.793/2011)

Shri Vijay Hari Kadam, PSI, Lanja is present in Court.

**CORAM: J.H.BHATIA,J.**

**DATE : 30th September, 2011.**

**P.C.**

1. The Applicants seek anticipatory bail in Crime No.28/2011 registered with the Lanja Police Station, District Ratnagiri under Sections 409, 408, 420, 467, 468, 471, 477-A read with Sec. 34 of IPC.

2. It appears that under an Integrated waste Land Development Scheme launched by the Central Government, certain works were undertaken in four villages i.e. Ringane, Hardakhade, Kondage and Kurang in Lanja Taluka, District Ratnagr during the year 2002-2003. The work was to be undertaken by a Local Project Committee consisting of representatives of villagers and was to be assisted by the Secretary of the concerned Grampanchayat.

3. A Writ Petition No.3694 of 2010 was filed by one Sanjay Ahire and others, including the intervener Kishore Madhukar Ayare, alleging that huge corruption had taken place and work was not actually done, but money was siphoned off by the member of the concerned Committees and the concerned

officers. During the hearing of the Petition, it was pointed out that Government had already appointed a Committee of five senior officers to look into the matter. The report of that Committee was submitted before the High Court and the Division Bench directed the Police to register FIR and accordingly the offence came to be registered and it is under investigation.

4. As per the report of the Inquiry Committee of the five senior officers, there was discrepancy to the tune of Rs.97,997/- in the total work done and the amount was required to be recovered from the concerned persons. On that basis, the Divisional Commissioner, Konkan Division also issued an order dated 4.3.2011 to the Chief Executive Officer, Zilla Parishad, Ratnagiri to make recovery of the said amount from the concerned persons.

5. The learned Counsel for the intervener contended that under the Integrated Waste Land development Scheme of the Central Government, a budget of about Rs.20 crore was made available, but work of only 1.5 crore was shown to have been done and in view of the controversy about not doing that work also, the balance amount of Rs.18.5 crore was withdrawn by the Government and work could not be done and thus the people of that area have suffered a lot. The learned Counsel for the intervener also contended that there is discrepancy about

the amount of misappropriation as per the report of the five senior officers and the investigation conducted by the police.

6. The learned APP, on instructions from the Investigating Officer, points out that in respect of the work done under the Committee for the Village Ringane, there appears misappropriation of amount of Rs.3,25,385/-. It is also contended that some of the persons have not received the amounts shown to have been paid to them. This amount is also included in the total amount shown to be misappropriated. The learned Counsel for the intervener contended that there is a difference in the civil liability and criminal responsibility and merely because action has been taken for recovery of the amount, the accused persons cannot be granted anticipatory bail in the criminal case.

7. On the other hand, the learned Counsel for the applicant Sunil Pednekar, who was Chairman of the Committee for the Village Ringane, pointed out that there were a large number of members of the Committee and the Committee was assisted by Grampanchayat Secretary. The Divisional Commissioner for Konkan had directed to recover an amount of Rs.12,007/- only from the Chairman, the Secretary and the Development Committee jointly in respect of the work of village Ringane. As per that report, four works at Village

Ringane have been completed satisfactorily and amount of Rs.2,57,000/- was spent in them. He also pointed out that as far as the applicant Anant Pote is concerned, only allegation against him, even as per the investigation conducted by police, is that he had failed to supervise the work properly. Similar appears to be allegation against applicant Vijay Vankhede, who was Agricultural Supervisor for village Ringane and three other villages. There is no specific allegation of misappropriation as far as applicant Anant Pote and Vijay Vankhede are concerned. Dereliction in duty in supervising the work is one thing and commission of crime by committing misappropriation and breach of trust is another thing. The learned Counsel for the applicant Sunil Pednekar, on instructions made a statement that even though as per the order of the Divisional Commissioner, only amount of Rs.12,007/- is to be recovered from the applicant Sunil Pednekar and others jointly, still to show his bonafides the applicant Sunil Pednekar is willing to deposit amount of Rs.3,25,385/-, which is allegedly misappropriated as per the investigation conducted by the police.

8. The works in these matters were done in the year 2002-2003. As pointed out above, there appears substantial difference in the report of the Inquiry Committee consisting of five senior officers and the finding of the Investigating Officer. It is nobody's case that Sunil Pednekar alone had committed defalcation

of whole of the amount. It is contended that there was a Committee of large number of people, of which he was Chairman, and many members of the Committee as well as the officers were responsible for the same. Taking into consideration the total amount involved and the period, which has lapsed after the work was undertaken, though interrogation of the applicants is required, custodial interrogation does not appear to be necessary.

9. For the aforesaid reasons, in the event of arrest in Crime No.28 of 2011, the applicants – Sunil Pednekar, Anant Pote and Vijay Vankhede shall be released on their executing P.R. of Rs.25,000/- each with one or two sureties to make up the amount with condition that they shall make themselves available to police as and when required for the purpose of interrogation and they shall fully co-operate in the investigation. They shall also produce all the documents which may be required by the police.

10. In respect of the applicant Sunil Pednekar, there shall be further condition that he shall deposit amount of Rs.3,25,385/- in the Court of J.M.F.C. Lanja within three weeks from this day. In case he fails to deposit the amount, the prosecution may move this Court for cancellation of anticipatory bail on that ground itself. If the amount is so deposited, the concerned J.M.F.C. shall invest

the amount in fixed deposit for a period of two years with some nationalized Bank and it shall be renewed from time to time if necessary. In case after the investigation the amount of misappropriation is found to be less, the applicant shall be at liberty to move the trial Court to refund the excess amount. The amount so deposited shall be subject to result of the criminal trial.

All these Applications stand disposed of accordingly.

**(J.H.BHATIA,J.)**