

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

CRIMINAL APPLICATION (BA) NO. 422 OF 2018

Wachan Anand s/o Vijay Anand Khandare V/s 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. R.M. Daga, Advocate for applicant.
Ms. Ritu Kalia, APP for State.

CORAM: S.B. SHUKRE, J

DATE: 03-05-2018

Heard. Learned Counsel for the applicant and
learned Additional Public Prosecutor for the State. Perused
the charge-sheet.

The learned Counsel for the applicant has
invited my attention to the order dated 02-06-2017 passed
in Misc. Cri. Bail Application No. 99/2017 by the Court of
Additional Sessions Judge-2, Gondia. By this order, the co-
accused Kamalkishor Lilhare, Assistant Director of "Voice
One Credit Co-operative Society", Gondia has been granted
anticipatory bail. This order has been primarily based upon
no objection given by the complainant Hirdelal Natthu
Funne and failure of the investigating officer to produce
before the Court the case diary of the case.

It is clearly mentioned in the order dated

02-06-2017 that complainant Hirdelal Natthu Funne filed one affidavit (Exhibit-6) stating on oath that he had no complaint against the accused Kamalkishor Lilhare. This order has attained finality as it has not been challenged by the prosecution.

In this case, it is submitted by the learned Counsel for the applicant that it is not only the complainant Hirdelal Natthu Funne but also 134 other investors situated similarly, who have the same grievances against Kamalkishor Lilhare. When this Court asked the learned Additional Public Prosecutor as to whether or not other similarly situated and affected 134 remaining investors had also given their no objection for grant of anticipatory bail to Kamalkishor Lilhare, learned Additional Public Prosecutor, on instructions from the investigating officer Shri Sanjay Deshmukh, Police Inspector, Ram Nagar Police Station, Gondia, replied that the statement of remaining 134 investors were recorded after anticipatory bail was granted to Kamalkishor Lilhare on 02-06-2017. When the charge-sheet was perused by me with the assistance of Shri Daga, learned Counsel for the applicant. I came across the fact that there were several other similarly situated and affected investors like Vimal Harinkhede whose statements were

recorded much before granting anticipatory bail to Kamalkishor Lilhare. Their statements were recorded on such dates as 16-03-2017, 17-03-2017 and also on some other dates. So, a false statement has been made by the investigating officer before this Court in order to mislead this Court and interfere in the administration of justice. However, in order to give chance to make amends, instead of taking action against the investigating officer Shri Deshmukh, Police Inspector, Ram Nagar, he is hereby cautioned to be truthful and faithful to the cause of justice.

Upon merits of the case, I find that this applicant is equally situated and at par with Kamalkishor Lilhare who has been granted anticipatory bail. If the parameters for grant of anticipatory bail are applied here, I think, the case of this applicant who is seeking regular bail, would stand even on higher footing. If this applicant, as alleged by the complainant, had made promises knowing them to be false, the co-accused Kamalkishor Lilhare also played the role of encouraging the innocent investors to invest their hard-earned money with the Credit Society of this applicant and not only that, he also played equal role in not keeping the promises which this Credit Society gave to the investors. But, with the help of novel method adopted in

this case, Kamalkishor Lilhare would obtain anticipatory bail from the Sessions Court. It is also surprising that the complainant, after making allegations against Kamalkishor Lilhare, gave his no objection for grant of anticipatory bail to him, even without withdrawing allegations so made.

As regards the promises made, *prima facie*, it does not appear that those promises were so impossible as to give an impression that they could not have been performed by any rationally thinking human being since the time they were made.

Investigation of this case is over, as the charge-sheet has been filed. Although there is an allegation that this applicant was absconding for a considerable period of time, the admitted fact is that he was never summoned to the Police Station for any purpose. If that is so, it cannot be said that this applicant deliberately avoided interrogation by the Police.

In view of the discussion made above, I find that now this applicant is entitled to be released on bail and this application is allowed.

It is directed that the applicant be released on P.R. Bond of Rs. 1,00,000/- together with one solvent surety in the like sum, on the following conditions :

[i] The applicant shall attend the concerned Court regularly on all the dates fixed in the case and shall cooperate with the trial Court in expeditious disposal of the case.

[ii] The applicant shall not leave State of Maharashtra without prior permission of the trial Court.

[iii] The applicant shall cooperate with the Investigating Officer in the investigation of the case.

[iii] The applicants shall not tamper with the prosecution witnesses in any manner.

The copy of the order be sent to the Superintendent of Police, Gondia for necessary action in the matter.

The application is disposed of.

JUDGE