

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

CRIMINAL APPLICATION (BA) NO. 183/2019

Vinay J. Wasankar
..VS..
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

Shri D.V. Chauhan, Advocate for the applicant
Shri S.S. Doifode, APP for the non-applicant/State
Shri S.S. Shingane, Advocate for Intervenor

CORAM : Z.A.HAQ, J.
DATED : 23/04/2019

Heard.

The applicant is arrested on 27/07/2014 in connection with First Information Report No. 156/2014 for the offences punishable under Sections 406, 409, 420, 506 and 120B of the Indian Penal Code read with Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999. Miscellaneous Criminal Application No. 2031/2014 filed by the applicant under Section 439 of the Code of Criminal Procedure was dismissed by the Sessions Court by the order dated 19/01/2015. It is submitted that at this stage charge-sheet was not filed. After filing of the charge-sheet, the applicant had filed Miscellaneous Criminal Application No. 1592/2015 which was dismissed on 11/09/2015. The applicant approached this Court under Section 439 of the Code of Criminal Procedure by filing Criminal Application (BA) No. 763/2015 which was dismissed on 22/12/2015. The applicant had filed

Miscellaneous Criminal Application No. 1993/2016 before the Sessions Court which was dismissed on 05/10/2016. The applicant had approached this Court by filing Criminal Application (BA) No. 327/2017 under Section 439 of the Code of Criminal Procedure. This application was withdrawn by the applicant on 05/07/2017. The applicant had filed Criminal Miscellaneous Application No. 3002/2018 before the Sessions Court which is dismissed on 01/02/2019. Then, the applicant filed present application under Section 439 of the Code of Criminal Procedure.

The learned advocate for the applicant submitted that the applicant is in jail for more than 4 years and 9 months, most of the co-accused i.e. about 16-17 are released on bail and the progress of the trial before the Special Court is not satisfactory. According to the learned advocate for the applicant, the witnesses are avoiding to attend the proceedings which is resulting in delay of the trial. The learned advocate for the applicant relied on the judgment given by the Hon'ble Supreme Court in the case of Nikesh Tarachand Shah vs. Union of India and another reported in (2018) 11 SCC at page 1 (specially para no. 19) and has argued that in the facts of the case, release of the applicant on bail or atleast on provisional bail will facilitate expeditious trial and the applicant will be able to assist the Court for expeditious trial.

The learned APP and Shri S.S. Shingane, Advocate appearing for the intervenor have opposed the application.

The learned APP has submitted that the prosecution is taking all possible steps to see that the trial progresses expeditiously. It is submitted that the co-accused who are released on bail, are the agents and some of them are the directors but they are women and this factor weighed with the Court while directing their release on bail. It is submitted that the order passed by this Court on 05/07/2017 shows that Criminal Application (BA) No. 327/2017 was withdrawn after the advocate for the applicant had argued the matter for sometime and this shows that perhaps the Court was not inclined to grant bail to the applicant and therefore, the application was withdrawn. It is argued that the applicant has not pointed out any change in the circumstances and therefore this Court should not consider the present application.

In the order passed by the learned Sessions Judge on 05/10/2016, it is recorded that as per the prosecution, the applicant has collected an amount of more than Rs. 25 crores from the investors. The allegations against the applicant are of duping the investors. The learned advocate for the applicant and the learned APP have pointed out that recording of evidence of three witnesses is over. The learned APP, on instructions, has informed that about 80 witnesses would be examined. The learned APP has pointed out that while deciding Criminal Writ Petition No. 722/2018, in the order dated 10/09/2018, this Court has observed that the trial be disposed till 30/09/2019.

After considering the rival submissions and the facts of the case, I am not inclined to grant the prayer made by the applicant, at this stage, however, taking note of the

grievance made on behalf of the applicant that the witnesses are avoiding to attend the Court for recording of evidence and are not co-operating, the applicant is granted liberty to reiterate his request for grant of bail and file application before this Court after 30/09/2019.

With the above observations, the criminal application is **dismissed**.

CRIMINAL APPLICATION (APPP) NOS. 315/2019 and 454/2019

In view of the dismissal of the criminal application, these applications praying for grant of time to file the certified copy of the order dated 01/02/2019 and for intervention do not survive. They are **disposed** accordingly.

JUDGE

Ansari