

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

CRIMINAL APPLICATION (BA) NO.1016/2019

Manmohan s/o Tilakraj Hingal and anr. .vs. State of Maharashtra through
PSO P.S. Dhantoli, Nagpur.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. S. P. Dharmadhikari, Senior Advocate assisted by
Mr. U. Dabale, Advocate for applicants.
Mr. N. B. Jawade, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.
DATED : DECEMBER 13, 2019

This is an application for regular bail. The applicants are arrested on 21.06.2019 by Economic Offences Wing of Nagpur Police in connection with Crime No.181/2019, registered with Police Station, Dhantoli, Nagpur for an offence punishable under Sections 420, 406, 409, 120(B), 465, 467, 468, 432, 471, 477-A of the Indian Penal Code (IPC), Sections 65 and 66 (B) of the Information and Technology Act (IT Act) and Section 3 of the Maharashtra Protection Of Interest of Depositors (In Financial Establishments) Act (MPID Act).

2. Heard Mr. Dharmadhikar, learned Senior Counsel for applicants and Mr.Jawade, learned A.P.P. for non applicant-State. Also perused the charge-sheet and reply.

3. Applicants are father and son and they run a business under the name and style as “Manmohan Trading Company” and “Shivam Enterprises”. In the charge-sheet, accusation against applicants is that they took eight loans from Navodaya Bank, each for ₹ 70,00,000/- (₹ Seventy Lac Only). Thus, they borrowed total ₹ 5,60,00,000/- (₹ Five Crore Sixty Lac Only). According to the accusation, for obtaining this loan, they submitted documents of the property which is actually worth ₹1,50,00,000/- (₹One Crore Fifty Lac Only) but its worth was shown as ₹7,73,03,886/- (₹Seven Crore Seventy Three Lac Three Thousand Eight Hundred and Eighty Six Only).

4. During the course of submissions, it was revealed to this Court that apart from these eight loans, they obtained another loan of ₹ 6,40,00,000/- (₹ Six Crore Forty Lac Only) from Navodaya Bank and the said amount was fully repaid in the year 2014 itself. There is no dispute about this submission made by learned Senior Counsel from learned A.P.P. for non applicant-State, who obtained instructions in that behalf from the investigating officer, who is personally present in the Court.

5. The investigation is already over. Charge-sheet is already filed. According to prosecution, as on today, more than ₹ 11,00,00,000/- (₹ Eleven Crore Only) is outstanding in the name of applicants and their firms. It is also revealed

to this Court that out of those eight loans, each worth ₹70,00,000/- (₹ Seventy Lac Only), applicants have repaid ₹1,72,00,000/- (₹ One Crore Seventy Two Lac Only). From and out of the said, it is also not in dispute. The outstanding amount is inclusive of interest, for which there is serious dispute between the bank and the borrower, is the submission. Insofar as the rate and quantum of interest is concerned, this is not the forum wherein the said could be agitated. However, at the same time, it is an admitted position that applicants borrowed ₹70,00,000/- (₹ Seventy Lac Only) each in eight loan cases and out of that they have repaid ₹ 1,72,00,000/- (₹ One Crore Seventy Two Lac Only).

6. In this background, learned Senior Counsel for applicants submits that applicants are ready to deposit ₹ 3,00,00,000/- (₹ Three Crore Only) as a condition to release them on bail.

7. The learned A.P.P. obtained instructions from the investigating officer. According to the instructions given to the learned A.P.P., presence of the applicants in jail is no more required by the prosecuting agency.

8. In that view of the matter, I pass the following order.

ORDER

- (i) The application is allowed.
- (ii) The applicants are directed to deposit ₹1,00,00,000/- (₹ One Crore Only) within a period of seven days from today in the Court of 11th Additional Sessions Judge, Nagpur, which is also a Special Court under the MPID Act in Special Criminal Case No.8/2019.
- (iii) On deposit of ₹ 1,00,00,000/- (₹ One Crore Only) within seven days from today, applicant no.1-Manmohan s/o Tilakraj Hingal and applicant no.2-Shivam s/o Manmohan Hingal be released on bail, in connection Crime No.181/2019, registered with Police Station, Dhantoli, Nagpur for an offence punishable under Sections 420, 406, 409, 120(B), 465, 467, 468, 432, 471, 477-A of the Indian Penal Code, Sections 65 and 66 (B) of the Information and Technology Act and Section 3 of the Maharashtra Protection Of Interest of Depositors (In Financial Establishments) Act, on they executing P.R. Bond in the sum of ₹ 1,00,000/- (₹ One Lac Only) each with one solvent surety each in the like amount.
- (iv) Learned Additional Sessions Judge, (Special Court before whom the applicants will be executing the bail bonds), shall first ensure that ₹ 1,00,00,000/- (₹ One Crore Only) is deposited by the applicants in the said Court.

(v) If the amount is not deposited within seven days from today, it shall be treated that no bail is granted to the applicants.

(vi) Within a period of sixteen weeks from today, the applicants are directed to deposit ₹ 2,00,00,000/- (₹ Two Crore Only) in the Court of learned Additional Sessions Judge, Nagpur (Special Court under the MPID Act).

(vii) Learned Additional Sessions Judge, Nagpur (Special Court under the MPID Act), is directed to see that ₹ 2,00,00,000/- (₹ Two Crore Only) are deposited with the said Court within sixteen weeks from today. And if there is any default by the applicants, the bail granted by this Court shall be treated as cancelled and it shall be open for the said Court to issue non bailable warrant against the applicants.

(viii) If the amount, as directed, is deposited, it shall be open for said Court to deal with said amount, in accordance with provisions of the Maharashtra Protection Of Interest of Depositors (In Financial Establishments) Act.

(ix) The applicants are directed to attend office of the Economic Offences Wing, once in a week i.e. on every Friday and shall be in the said office between 02.00 p.m. to 05.00 p.m. until culmination of the trial.

(x) The applicants are directed to surrender their Passports before the learned Additional Sessions Judge, Nagpur (Special Court under the MPID Act). The learned Additional Sessions Judge shall retain those Passports and in any case, without permission of this Court, the said Passports shall not be given to the applicants.

(xi) If it is found that during the pendency of the bail the applicants are trying to influence any of the prosecution witnesses, it will be open for the investigating officer to file an application for cancellation of bail.

The application is disposed of.

JUDGE

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