

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

CRIMINAL APPLICATION (BA) NO.164 OF 2020

(Subhash s/o Ramkumar Shukla ..vs.. State of Maharashtra, through PSO, PS Sakkardara, Nagpur)

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, Counsel for the applicant,
Shri N.B. Jawade, Addl.P.P. for the non-applicant.

CORAM : ROHIT B. DEO, J.

DATED : 18-03-2020

The applicant, who is in custody since 18-9-2019, is seeking enlargement on bail in connection with Crime 396/2019 registered with Police Station Sakkardara, Nagpur for offences punishable under Sections 409, 420, 467, 468, 471 and 120-B of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interests Depositors (In Financial Establishments) Act.

2. At the very outset, Shri D.V. Chauhan, learned Counsel invites my attention to the order dated 04-3-2020 in Criminal Application (BA) 103/2020 granting bail to co-accused Chandrakant Bihare. Shri D.V. Chauhan, learned Counsel would submit that the entitlement of the present applicant to bail stands on higher pedestal. This submission is of course vehemently refuted by Shri N.B. Jawade, learned Additional Public Prosecutor.

3. The alleged crime has two facets. The first is the misappropriation of Rs.1,94,00,000/- allegedly committed by the Directors of Poonam Urban Co-operative Society, who acted hand in gloves with one of the masterminds Prasad Agnihotri. The modus operandi was that loan was obtained/sanctioned in names of gullible persons by misusing the documents in possession of Prasad Agnihotri and the amount of loan was received directly by accused Prasad Agnihotri. The persons in whose names the loan was obtained were unaware of the transaction. Further, despite the maturity of fixed deposit of more than Rs.1,08,00,000/- which is a preliminary assessment of the investigating agency, the amount was not paid to the account holders. In all fairness, Shri N.B. Jawade, learned Additional Public Prosecutor does not dispute the submission of Shri D.V. Chauhan, learned Counsel that the applicant is not attributed any role in the aforesaid facet of the crime.

4. The incriminating material against the applicant is that he and co-accused Chandrakant Bihare were witnesses to the sale-deed dated 14-12-2017 vide which the society purchased 0.80 hectare land at Ruipanjari on Wardha Road. The President of the society Arun Phaltankar represented the society in the said transaction. The prosecution case is that the society is not a housing society and that the purchase of the said land was totally illegal. It is further alleged that the

resolution which is appended to the sale-deed is non-existent. In so far as the applicant is concerned, he is alleged to have executed several documents styled as possession letters in June and July, 2018 in favour of the account holders of the society. Shri D.V. Chauhan, learned Counsel for the applicant would submit that this was done to minimize the loss caused to the account holders. Be that as it may, it is not in dispute that as of today the investigating agency has not received a single complaint from the persons/account holders who are placed in possession of the plots carved out from the land purchased by the society at Ruipanjari.

5. Considering that the applicant has no criminal antecedent, that he is not a flight risk and the fact that he is in custody since 18-9-2019, I do not see any reason why further incarceration of the applicant is necessary. The release of the applicant is not likely to hamper the investigation

6. The applicant shall be released on bail on furnishing personal bond of Rs.20,000/- with one solvent surety of like amount.

JUDGE

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