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

Criminal Application BA No. 219 of 2020
Rajesh s/o Malleshyam Bogul Vs. The State Through Police Station 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. D.V. Chauhan, Advocate for the applicant
Mr. N.B. Jawade, APP for the respondents - State

CORAM : MANISH PITALE, J.

DATED : JUNE 09, 2020

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard learned counsel for the applicant. The present bail application has been filed by the applicant, who has been behind bars since 18/06/2019 in connection with FIR dated 15/05/2019, registered at Police Station Dhantoli, Nagpur City for offences under Sections 420, 406, 409, 120-B, 465, 467, 468, 471 and 477-A of the Indian Penal Code, under Section 3 of the Maharashtra Protection of Interest of Depositors Act and under Section 65, 66-B of the Information Technology Act.

3. It is alleged that the applicant at the relevant time when the offences were said to have committed was a Branch Manager of the Bank from where huge amounts were allegedly

swindled and that the applicant had a role to pay in the same. In fact, chargesheet specifically alleges against the applicant about involvement of his role in preparation of 14 debit vouchers leading to withdrawal of huge amount of Rs. 73,80,000/- ostensibly for expenses of Bank, which amount was ultimately siphoned off and never used for such purposes. There are other allegations made against the applicant, including the allegation that he was also responsible for certain entries in the records of the Bank being fudged. The thrust of the allegations against the applicant was that he was party to the illegally siphoned off huge amount of money from the Bank leading to financial scam of large proportions.

4. The learned counsel appearing for the applicant referred to the specific allegations made against the applicant in the chargesheet and he submitted that even if they were to be appreciated by this Court, further custody of the applicant was not justified. It was submitted that after FIR was registered, the applicant had appeared before the investigating authority twice and he had given a statement and it was thereafter that on 18/06/2019, the applicant was arrested. It was submitted that since the investigation was over and now the chargesheet was also on record, the applicant deserved to be enlarged on bail. It was further submitted that the applicant was ready to abide the conditions that may be imposed by this Court for grant of bail. Specific reliance was place on the law laid down by the Hon'ble Supreme Court for addressing apprehension of the prosecution that the applicant may flee upon being granted bail.

5. On the other hand, the learned APP strongly opposed bail in the present case emphasising on the role played by the applicant in the huge financial scam concerning the present case. It was submitted that the applicant could not claim that he was under pressure from his superiors for preparing such vouchers because the material on record clearly indicated that it was at the behest of the applicant hat the aforesaid huge amount was withdrawn ostensibly towards expenses of the Bank on the basis of debit vouchers prepared by the applicant himself. It was submitted that he was party to disbursal of loan amount to co-accused persons, who even today are on the run and, therefore, no ground was made out for grant of bail to the applicant herein. It was submitted that there is every possibility of the applicant avoiding being brought to the justice if bail was granted at this stage and that there was apprehension that the applicant would influence course of prosecution upon being enlarged on bail. It was submitted that when there was sufficient material to directly connect the applicant with the financial scam of large proportion, he did not deserve to be granted bail. Specific reliance was placed on the judgment of the Hon'ble Supreme Court in the case of **Dr. Vinod Bhandari Vs. State of M.P. 2015 ALL MR (Cri) 1236 (S.C.).**

6. Heard learned counsel for the rival parties. This Court has perused the material on record, including the portion of the chargesheet wherein specific allegations have been levelled against the applicant. It is alleged in the chargesheet that the applicant was responsible for preparation of 14 debit vouchers leading to illegal siphoning of huge amount of Rs. 73,80,000/-. It was submitted that the applicant was responsible for facilitating

such defalcation of amount and also for illegal disbursal of loan amount of crores of rupees to co-accused persons, who were still absconding. The material on record does show that there are serious allegations made against the applicant. It is also at the same time a matter of fact that the applicant has been in custody since 18/6/2019, which shows that he has been behind bars for almost one year.

7. A perusal of judgment on which the learned APP has placed reliance i.e. judgment in the case of **Dr. Vinod Bhandari Vs. State of M.P.** (supra) shows that there are dual aspects emphasized upon by the Hon'ble Supreme Court while considering the question of grant or refusal of bail. It has been specifically laid down that if there is material on record supporting the allegation of serious offence against the applicant and there is a potential of trial being adversely influenced by granting bail, the application for bail deserved to be rejected. In the present case, there is material on record to connect the applicant to the allegations made against him, but, there does not appear to be sufficient material to show that progress of the trial would be adversely influenced if the applicant in the present case is granted bail.

8. The applicant was admittedly a Branch Manager and hence employee of the Bank. The applicant has been behind bars since 18/6/2019 and chargesheet has been already submitted. There is also no dispute about the fact a large number of witnesses will have to be examined by the prosecution to prove its case beyond reasonable doubt and admittedly chargesheet runs into

number of pages. It is therefore evident that even if the Trial Court makes an effort to expeditiously complete the trial, the process would itself take a considerable amount of time. This situation is compounded by the present Covic 19 crisis engulfing the country and world at large. It is obvious that the trial proceedings cannot be expected to be completed in a swift manner.

9. The learned counsel appearing for the applicant was justified in relying upon the judgment of the Hon'ble Supreme Court in the case of **P. Chidambaram Vs. Directorate of Enforcement 2019 SCC Online SC 5380**. The Hon'ble Supreme Court has considered the aspect of possibility of co-accused persons or the applicant himself making an attempt to flee the course of justice and where such an apprehension can lead to rejection of the application for bail. It has been laid down that mere apprehension of accused persons making an attempt to flee justice cannot be a basis for rejection of bail and appropriate conditions may be imposed even in a case where the accused are said to have committed economic offences involving defalcation of huge amount of money.

10. In the present case, keeping the applicant behind bars may not necessarily lead leading to apprehending the absconding co-accused persons. In so far as apprehension regarding the applicant fleeing the course of justice and avoiding proceedings of trial, appropriate conditions can certainly be imposed while granting relief in the present application.

11. The learned APP insisted that imposing stringent conditions may be imposed while releasing the applicant on bail.

12. Considering the aforesaid submissions made by the rival parties, this Court is of the opinion that the present application can be conditionally allowed.

13. In view of above, the application is allowed in the following terms :

(a) The applicant is directed to be released on bail in connection with FIR No. 181/2019 dated 15/5/2019 registered at Police Station Dhantoli, Nagpur on furnishing PR bond of Rs.1,00,000/- (Rs. One Lakh) and surety in the like amount.

(b) The applicant shall surrender his passport before the Special MPID Court, Nagpur within a period of two weeks of his release.

(c) The applicant shall attend the office of the Economic Offences Wing, Nagpur every week on Monday between 3.00 to 5.00 p.m.

(d) The applicant shall attend each and every date of the proceedings before the Trial Court.

(e) The applicant shall co-operate with the investigating authority and he shall not tamper with the evidence or influence the witnesses in any manner.

14. The application is disposed of in above terms.

15. Needless to say in case the applicant violates any of the aforesaid conditions, he shall be liable for cancellation of bail grabted by this Court.

16. It is made clear that the observations made in the present order are limited to the question of grant of bail to the applicant and that the trial Court shall proceed on merits without being influenced by observations made by this Court.

17. This order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

MP Deshpande