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

CRIMINAL APPLICATION (BA) NO. 487/2021.

Satish Nanabhau Mohod and another.

-**VERSUS**-

State of Maharashtra.

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders
	Shri P.V. Navlani, Advocate for Applicants. Shri I.J. Damle, APP for the Non-applicant.

CORAM : VINAY JOSHI, J.
DATE : JUNE 24, 2021

Hearing was conducted through Video Conferencing.

2. Registration of Crime No.228/2020 by Bhatkuli Police Station, District Amravati led applicants to approach this Court for grant of bail for the offence punishable under Sections 420, 409, 468, 471 read with Section 34 of the Indian Penal Code. Report of Regional Manager dated 15.12.2020 caused police to register the offence and commence investigation. It was reported that present applicants, who are banking correspondents [B.C. Agents] of the Bank, along with co-accused have from time to time

withdrawn certain amount from the accounts of dead beneficiaries by forging their signatures and thumb impressions on transfer and withdrawal slips. Periodically pension/grant was credited under Sanjay Gandhi Niradhar Scheme in the bank accounts of deceased beneficiaries. Applicants by deceitful means caused to transfer said amount into the accounts of some other account holders and in turn have withdrawn the said amounts from ATM and by way of cash withdrawal.

3. As per the prosecution case, on 18.09.2020, applicant Umesh Mankar has handed over withdrawal /transfer slip to the bank cashier Preeti Bhumralkar for transfer of pension amount of deceased Ganesh Gawande in the account of one Sandeep Agham. Forged thumb impression was put on the transfer slip with attestation of the bank officer Shri Pranit Agrawal. The cashier suspected about the attestation, hence, she enquired with Shri Agrawal about it on which the later denied. On verification it was transpired that both applicants in connivance with the co-accused at umteen time played the similar trick of transferring money from the dead person's account to the account of some

other account holders. The matter was reported to the higher authorities who enquired and found that in fradulent manner, applicants have siphoned total amount of Rs.17.62 lakhs from the account of near about 67 dead account holders, and therefore, the report.

4. The learned Counsel appearing for applicants would submit that there is no prima facie material against applicants to connect them with the crime. Primely it has been argued that the statements of account holders have not been recorded in whose name the amount was credited. Moreover, the investigating agency has not recorded the statement of bank official Pranit Agrawal, who was supposed to verify the signatures/thump impression of account holders. Likewise, statement of Branch Manager Sunil Salunke has not been recorded to state about the steps which he had taken. There is no denial to the said submission about recording of their statements, however, it is submitted that further investigation is going on in which the process of recording their statement is in progress.

5. It is argued that B.C. agents have no access, nor any concern with the bank accounts of dead persons.

According to him there is no material to show that the applicants have derived any benefit, meaning thereby had not withdrawn the amount from other account holders. It is stated that though the period of alleged fraud was ranging for the period of one year preceding to 22.09.2020, however, unnecessarily bulky account extracts for last 5 years have been produced. It is submitted that during investigation the alleged forged withdrawal slips have been seized and the matter is largely depending upon documentary evidence. The investigation is complete and charge sheet has been filed. Besides that the learned Counsel for the applicant by placing reliance on the decision of Hon'ble Supreme Court in cases of **sanjay Chandra .vrs. CBI (2012) 1 SCC 40** and **P. Chidambaram .vrs. Directorate of Enforcement (2020) 13 SCC 791**, has reiterated the well established principles of grant of bail and finally urged for release of applicants on bail.

6. The State has strongly resisted the bail by filing reply affidavit. It is contended that the applicants have cheated the bank by deceitful means for their own benefit. It is a case of financial fraud, which is to be viewed with all seriousness. Huge amount of money was misappropriated by

applicants and there is ample supporting material to show their involvement. In short emphasis was placed by the learned A.P.P. upon the seriousness of the alleged offence and that this being an economic offence committed in a pre-planned manner, applicants shall not be released on bail. Learned A.P.P. in support of above contention has relied on the decision of Hon'ble Supreme Court in case of **Nimmagadda Prasad .vrs. CBI (2013) 7 SCC 466**.

7. In above referred case of P. Chidambaram, the Hon'ble Supreme Court has reiterated the position that although economic offences are indeed serious offence, bail jurisprudence would require that each case is to be considered on its own facts with the cardinal principle being kept in mind, that grant of bail is a Rule and refusal is an exception. It is also expressed that in appropriate case by imposing certain conditions for securing presence of the accused, discretionary relief can be granted. Needless to say that while granting bail, the Court has to keep in mind the nature of accusation, the material collected in support thereof, the severity of punishment, circumstances which are peculiar to the accused, reasonable possibility of securing presence of the

accused at the trial and other relevant factors. Keeping in mind these parameters, applicants entitlement for bail has to be tested.

8. With the assistance of both sides, the relevant portion of entire charge sheet which runs into near about 1000 pages was gone into. The prime allegation is about applicants forging signatures and thumb impression of deceased persons on withdrawal and transfer slips by which the amount was credited in the account of some others. Statements of heirs of deceased were recorded to show that they were unaware about such withdrawals. Various alleged forged transfer /withdrawal slips have been seized during the course of investigation. It is required to be proved by leading evidence that the signatures and thumb impression were put by applicants. Admittedly there are no signatures of applicants to prima facie vouch their involvement. At this stage, there is no expert opinion to connect the applicants with the tainted documents. Pertinent to note that statements of account holders in whose accounts the amount was credited, were not recorded to state that amounts from their account was fraudulently withdrawn or got transferred.

Certain account extracts were seen which denotes that there were ATM and cash withdrawal. Prima facie, the prosecution is not in a position to show that these cash withdrawals are by applicants only.

9. The Bank Officer Shri Agrawal is the best person who can state that he did not attested the thumb impression of the deceased. However, said material is not available. The entire case is based on documentary evidence. True, from one of the accused, list of deceased beneficiary was seized, however, that alone would fall short to draw any particular inference. There is no prima facie material to indicate that there was an entrustment with accused to attract an offence of criminal breach of trust. Rest of the offences are punishable with imprisonment, which may extend upto 7 years. The offences are triable by the Court of Magistrate. There are no criminal antecedents against the accused. Considering the volume of police papers, several witness are to be examined and trial will take considerable time for its disposal. There is no material to hold that accused would interfere into the process of further investigation or trial. Having regard to all these circumstances, accused can be released on bail by

putting them on stringent terms. In view of above, following order is passed.

(i) Criminal Application is partly allowed and disposed of.

(ii) Applicants/accused namely (1) Satish Nanabhau Mohod and (2) Umesh Dhanraj Mankar, are released on bail in connection with Crime No.Crime No.228/2020 registered by Bhatkuli Police Station, District Amravati for the offence punishable under Sections 420, 409, 468, 471 read with Section 34 of the Indian Penal Code on their furnishing P.R. bond in the sum of Rs.1,00,000/- (each) with one solvent surety of the like amount.

(iii) Applicants/accused shall attend concerned Police Station on every alternate Monday in between 10.00 a.m. to 12.00 noon for a period of one year to facilitate further investigation in the matter.

(iv) Applicants/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

(v) Misc. Applications, if any, also stands disposed of.

JUDGE p

Rgd.