

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

CRIMINAL APPLICATION (BA) NO.1005 OF 2020

(Vijay s/o Chudaman Marathe Vs. State of Maharashtra thr. PSO PS Durgapur, Dist.
Chandrapur)

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

Court's or Judge's orders.

Mr. S.V. Sirpurkar, Advocate for Applicant.
Mr. N.S. Rao, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 13th AUGUST, 2021.

The applicant, who has already suffered pre-trial detention of fifty six months is seeking bail in connection with Crime 83/2014 registered with Police Station Durgapur, District Chandrapur for offences punishable under sections 420, 467, 438, 417, 109 and 201 of the Indian Penal Code, section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (MPID Act) and section 138 of the Negotiable Instruments Act.

2. It would be necessary to note certain orders passed in the bail application earlier moved.

3. This Court (Coram: Shri P.B. Varale, J.) granted temporary bail in Criminal Application (BA) 213/2016 subject to the condition of deposit of Rs.10 lakhs prior to

release and Rs.25 lakhs within one month of the release on temporary bail. It is not in dispute that the applicant deposited the amount of Rs.35 lakhs.

4. It is further not in dispute that the applicant thereafter deposited a further amount of Rs.20 lakhs and thus, the total amount deposited by the applicant till date is Rs.55 lakhs.

5. The earlier bail application was listed before this Court (Coram: Shri V.M. Deshpande, J.) on 14.08.2017. An order came to be passed directed that the applicant shall deposit further amount of Rs.20 lakhs within two months. This order was not complied with, with the result that vide order dated 11.01.2018 this Court cancelled the temporary bail.

6. In my considered view, the applicant is entitled to bail on facts as well as on the ground of delay in proceeding with the trial.

7. The applicant has already undergone detention of fifty six months. The trial court framed the charge in 2015. However, till date, not a single witness is examined. The maximum punishment for offence punishable under section 420 of IPC is seven years. Section 467 of IPC is invoked on the premise that an agreement to sale which is executed by certain members of Damhare and Chaudhari

family in favour of the applicant bears the forged signature of three members of Chaudhari family.

8. While I am not inclined to, and it is wholly unnecessary, to make any decisive observation, suffice it to note that the applicant is a proposed purchaser and there is no material on record to suggest that he was aware of the alleged forgery. Notably, one of the vendors Waman Damhare who is co-accused is released on bail.

9. I am satisfied that further incarceration would be in the nature of pre-trial punishment.

10. Nothing is brought to my notice to suggest that the applicant would pose a flight risk or that he would not be in a position to subvert the trial.

11. The application is allowed.

12. The applicant be released on bail on furnishing personal bond of Rs.16,000/- with one solvent surety of the like amount.

13. The applicant shall not make any attempt to influence the witnesses, directly or indirectly.

14. The applicant shall not leave the country without the permission of the trial Court.

15. The application is disposed of accordingly.

JUDGE

NSN