

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

Criminal Application (BA) No. 1305 of 2020

Prakash s/o Vasudeo Nimkar

Vs.

The State of Maharashtra through P.S.O. of P.S. Kalmeshwar

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

Court's or Judge's orders

Mr. R.M. Daga, Advocate and Mr. U.P. Dable, Advocate for the
applicant
Mr. Sagar Ashirgade, APP for the respondent

CORAM : MANISH PITALE, J.

DATED : JULY 12, 2021

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

2. The applicant was arrested on 24/04/2019, in connection with FIR dated 06/10/2018, registered in respect of offences under Sections 420, 409, 467, 468, 471 and 120-B of the Indian Penal Code, as also provisions of the Information Technology Act, 2000 and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

3. The investigation in the present case has been completed and charge-sheet has been filed. The learned counsel appearing for the applicant at the

outset submitted that the main accused persons in the present case have been released on bail by this Court by imposing specific conditions and that the applicant in the present case also deserves to be released on bail. The applicant undertakes to abide by conditions that may be imposed by this Court. It is further submitted by the learned counsel for the applicant that the Hon'ble Supreme Court in the case of a co-accused person, accepted 50% of amount attributable to such co-accused person to be deposited in the Trial Court subject to the final result of the trial and then directed release of such co-accused person on bail. It is submitted that other co-accused persons have been directed to be released on bail by depositing certain amounts and by imposing specific conditions by this Court. Since the applicant in the present case has been behind bars from the date of his arrest i.e. 24/04/2019, it is submitted that the present application deserves to be allowed.

4. In the backdrop of reliance placed on the order of the Hon'ble Supreme Court in the case of a co-accused person and willingness shown on the part of the applicant to deposit 50% amount attributable to him, the learned A.P.P. submitted a chart before this Court, on the basis of the statements given by witnesses during the course of investigation to indicate the amount that could be attributable to the applicant herein. By placing reliance on the aforesaid chart, the

learned A.P.P. submitted that this Court could impose appropriate conditions, including depositing 50% of such amount for granting bail to the applicant, in view of the order passed by the Hon'ble Supreme Court in the case of the co-accused person.

5. The thrust of the allegations of the prosecution in the present case is that the applicant along with co-accused persons had allured innocent investors to deposit amounts promising handsome returns. Eventually, the promised returns were not realized and the investors suffered huge financial losses, thereby resulting in reports being lodged with police, causing the aforesaid FIR dated 06/10/2018 to be registered, wherein the applicant is one of the accused persons. A perusal of the material on record does show that the co-accused persons have been released on bail, *inter-alia*, on the condition of depositing certain amounts in the trial Court, pending the trial.

6. A perusal of the order dated 30/09/2020, passed by the Hon'ble Supreme Court in the case of co-accused person Vinod Keshav Thute Vs. The State of Maharashtra (Criminal Appeal No. 647 of 2020) shows that the Hon'ble Supreme Court has directed release of the co-accused on bail after recording that the said co-accused complied with the direction to deposit 50% of the total amount attributable to him. On this basis, the

order the High Court was set aside and bail was granted. The relevant portion of the aforesaid order of the Hon'ble Supreme Court reads as follows :

“4. We have heard learned counsel for the parties.

5. It is not in dispute that co-accused have been released on bail by the High Court on certain conditions. The appellant expressed his willingness to comply with such conditions. As a result, notice was issued to the respondent – State.

6. The appellant has complied with the condition of depositing 50% of the total amount attributable to the appellant with the trial Court. That deposit is subject to the final order to be passed by the trial Court.

7. We find no reason to deviate from the approach adopted by the High Court in respect of co-accused for granting bail to the appellant, which order has been allowed to become final by the prosecution.

8. Accordingly, we direct that the appellant be released on bail on such terms and conditions as may be imposed by the learned Trial Court in connection with Crime No.743/2018, registered with Police Station Kalmeshwar of Distt. Nagpur.

9. The order dated 18.10.2019 passed by the High Court is set aside and the appeal is allowed accordingly.”

7. In this backdrop, considering the nature of allegations made against the applicant herein and the material placed on record along with charge-sheet, in view of the bail granted to co-accused persons,

particularly directing release of co-accused on bail in the above quoted order of the Hon'ble Supreme Court, the present application can also be allowed by imposing appropriate conditions.

8. The chart filed along with a pursis dated 08/07/2021, shows that the learned A.P.P. has fairly stated the amounts that could be attributable to the applicant herein, on the basis of the statements of witnesses recorded during the course of investigation. As the charge-sheet and accompanying documents are very bulky, the learned A.P.P. prepared the aforesaid chart for the convenience of this Court. By analyzing the statements of witnesses, it is stated that total amount of Rs.17,70,792/- could be attributable to the applicant herein.

9. The learned counsel appearing for the applicant has submitted that entry No.8 in the chart shows that while calculating the amount attributable to the applicant, a Maruti car valued at Rs.7,00,000/- is also included. It is submitted that the said car has already been seized during the course of investigation and that, therefore, the said amount could be deducted. The learned A.P.P. did not dispute the fact that the aforesaid car has been indeed seized during the course of investigation.

10. In view of the above, it appears that the said

amount of Rs.7,00,000/- pertaining to car could be deducted, as the car has been already seized during investigation, which shows that an amount of Rs.10,70,792/- can be said to be attributable to the applicant before this Court. There is no dispute about the fact that other co-accused persons have been released by this Court on bail, *inter-alia*, on the condition that they shall deposit various amounts before this Court. The above quoted order of the Hon'ble Supreme Court also shows that upon compliance of the condition of deposit of 50% of the amount attributable to the co-accused Vinod Keshav Thute, the Hon'ble Supreme Court directed the said co-accused person to be released on bail.

11. In view of the above, the present application is allowed, on the condition that the applicant shall deposit an amount of Rs.5,00,000/- (Rs. Five Lakhs) (about 50% of the amount attributable to him) within a period of six weeks from today before the Trial Court. Upon such deposit of amount before the Trial Court, the applicant shall be released on bail on furnishing PR bond of Rs.50,000/- with surety in the like amount. The applicant shall report to Crime Branch (Economic Cell), Nagpur Rural, twice every month i.e. on second and fourth Monday of each month during pendency of the trial. The applicant shall also attend proceedings before the Trial Court on each and every date.

12. Application stands allowed in above terms.

JUDGE

MP Deshpande