

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

Criminal Application (BA) No. 320 of 2022

Manoj Mansingh Chavan

Versus

The State of Maharashtra, through Police Station Officer, Police Station
Kalmeshwar, Dist. Nagpur

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri D.V.Chauhan, Advocate for the applicant.

Ms Shamshi Haider, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 13th JULY, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 743 of 2018 dated 6th October, 2018 registered with Police Station Kalmeshwar Dist. Nagpur for the offence punishable under Sections 420, 409, 465, 467, 468, 471, 120-B of Indian Penal Code, Section 66(a), 66(b) and 66(d) of Information Technology Act and Section 3 of the Maharashtra Prevention of Interests of Depositors Act, 1999.

2. Shri Chauhan, learned counsel for the applicant submits that except the applicant, all other

accused persons are released on bail, who were arrested. It is pointed out that one of the co accused is absconding.

3. Shri Chauhan, learned counsel for the applicant submits that in the First Information Report, the allegations are of defalcation of amount of Rs.84,59,000/-. Whereas, more than Rs.95,78,692/- was deposited by co-accused as a condition for grant of bail.

4. It is submitted that applicant has received Rs. 7,50,000/- in his personal account and accordingly he has ready to deposit Rs.5,00,000/- to show his bonafides.

5. Shri Chauhan, learned counsel for the applicant submits that the applicant is in jail since 29th February, 2020 i.e. for more than two and half years. He further points out that after completion of investigation, the chargesheet has been filed. He therefore submits that further custody of the applicant is not necessary. Accordingly, he prays for grant of bail.

6. On the other hand, learned Additional Public Prosecutor has strongly opposed the application and she submits that the applicant has received about Rs. 99 lakhs and therefore he may be asked to deposit 50% of Rs. 99 lakhs and not Rs.5,00,000/-.

7. She further submits that there is ample incriminating material available against the applicant. She further points out that there are criminal antecedents against the applicant.

8. I have perused the chargesheet, the documents filed alongwith application and the reply.

9. From the chargesheet, it can be seen that in the First Information Report, the amount of defalcation shown is Rs.84,59,000/-. However, during the investigation, it was found that the total amount of defalcation is Rs.1,05,02,438/-. It can be seen that out of the said amount, more than 50% amount has already been deposited by the co-accused who have been released on bail. Thus, it can be seen that more than 50% is secured by way of deposits made by the co-accused.

10. In this case further investigation is going on as the non-applicant is still receiving complaints from the depositors.

11. There are nine accused persons out of which one accused person is absconding and seven co-accused are released on bail. Thus, except the applicant, all the accused persons who were arrested, are released on bail.

12. It is further revealed that process of attaching the property which are located in Gujarat, is going one.

13. The bank statement of the applicant shows that he has received amount of Rs.7,50,000/- in his account. Except this, there is no material to show that the applicant has received any amount more than this amount, as claimed by the learned Additional Public Prosecutor.

14. The role of the applicant and other co-accused who have released on bail, is similar. Hence, the applicant is entitled to release on bail, on parity.

15. There are two offences registered against the applicant i.e. one is at Rajasthan and another in Gujarat, of similar nature.

16. Thus, considering the criminal antecedents, I am of the opinion that the applicant shall be released on bail by putting some stringent condition. Accordingly, I pass the following order.

- i. Criminal application is allowed;
- ii. It is directed that applicant shall be released on bail in Crime No. 743 of 2018 dated 6th October, 2018 registered with Police Station Kalmeshwar, District Nagpur (Police Inspector, Crime Branch Economic Offence Wing, Branch (Rural), Nagpur) for the

offences punishable under Section 420, 409, 465, 467, 468, 471, 120-B of the Indian Penal Code, Section 66(a), 66(b) and 66(d) of Information Technology Act and Section 3 of Maharashtra Prevention of Interests of Depositors Act, 1999 on furnishing P.R.Bond of Rs.50,000/- with one solvent surety in the like amount;

Correction
carried out as
per order dt.
19.07.2022

iii. The applicant is presently in Jaipur Jail. Therefore, it is directed that if the applicant is released on bail in the said offence registered in Jaipur, Rajasthan, he shall attend Sardar Police Station, Airport Road, Ahmedabad on 1st day of every month between 10 am to 11 am till the conclusion of the trial;

iv. The applicant shall deposit Rs.5,00,000/- as he has undertaken, within four weeks from the date of release from jail, before the Special Court.

v. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence.

vi. State is at liberty to apply for cancellation of bail in case the applicant commits similar offence or in case of breach of condition.

[ANIL S. KILOR, J.]