

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

Criminal Application (BA) No. 627 of 2022

Pankaj S/o Nandlal Agrawal (Mehadia)

Versus

State of Maharashtra, through P.S.O., P.S. Sitabuldi, Dist. Nagpur and another

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 alongwith Shri Rommill Jain, Advocate
for the applicant.

Ms M.A. Barabde, A.P.P. for the non-applicants/State.

CORAM : ANIL S. KILOR, J.

DATED : 06/07/2022

1. The applicant is seeking bail in Crime No.509 of 2021, dated 02.11.2021, registered with Police Station Sitabuldi, District: Nagpur City, for the offences punishable under Sections 420, 406, 409 and 120-B of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act.

2. Shri Chauhan, learned counsel for the applicant submits that the complainant had no grievance till 2017 about non payment. He further points out that if there was any default in payment of amount, the complainant ought to have availed the remedy for recovery of amount by filing a civil suit. However, he is trying to use police machinery for recovery.

3. Shri Chauhan, learned counsel for the applicant submits that during investigation the police have seized all documents including bank statements and other

relevant documents, therefore, the further custody of the applicant is no more required, as the investigation is over and charge sheet has been filed against the present applicant.

4. He further points out that the matter was settled between the parties in November, 2021 and accordingly, the applicant and other accused persons have issued cheques to the complainant by handing it over to the complainant's lawyer. However, subsequently, it is revealed that the lawyer did not hand over it to the complainant. The said fact was pointed out to this Court in Criminal Application No.1236 of 2021. He further points out that, thereupon, the Division Bench of this Court directed to initiate disciplinary proceedings against the concerned lawyer. He further pointed out the letter dated 01.06.2019 wherein already the Investigating Officer have closed the complaint and advised the complainant to approach Civil Court for redressal of his grievance. He further draws attention of this Court to the order dated 29th June, 2022 passed by the Division Bench of this Court in Criminal Application No. 745 of 2022 wherein the Court after considering the above submissions have granted interim stay to the proceedings of Special Case No.49 of 2022 pending on the file of District Judge-15 and Additional Sessions Judge, Nagpur.

5. He further argues that the applicant filed a proceedings before NCLT, in the said proceedings, a liquidator has been appointed while passing the order of

insolvency, for payments to be made to the investors. Thus, he submits that the interest of the complainant is protected by the said order and therefore, he prays for grant of bail.

6. On the other hand, Ms M.A. Barabde, learned Additional Public Prosecutor strongly opposes the present application and applicant is the main accused who is involved in the present crime. Therefore, she prays for rejection of the present application.

7. I have perused the charge-sheet and reply filed by the State.

8. After completion of investigation the chargesheet has been filed against the present applicant on 27th January, 2022. During the investigation, the record has been seized and recovered by the Investigating Agency, relating to M/s Lokesh Metallic's, M/s Mehadia Sales Trade Corporation and M/s Nandlal D. Mehadia.

9. The proceedings namely Criminal Application No.1236 of 2021 filed by the present applicants and others, shows that certain cheques were handed over, in view of the settlement to the lawyer of the complainant. However, it was not handed over by the lawyer to the complainant. The said fact sufficiently shows that there was a settlement between the parties and the complainant accepted the cheques through his lawyer.

10. Moreover, there is nothing to show that if the applicant is released on bail, there is any possibility that the applicant would pressurize the prosecution witnesses or

tamper with the prosecution evidence or he will not be available for the trial. Thus, I am of the opinion that the bail should be granted with certain 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. 509 of 2021 registered with Police Station Sitabuldi, District Nagpur for the offences punishable under Sections 420, 406, 409 and 120-B of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, on furnishing P.R.bond of Rs.25,000/- with one solvent surety in the like amount.
- iii. The applicant shall attend the concerned police station as and when his presence is required.
- iv. The applicant shall not leave the jurisdiction of the concerned Police Station without permission of the 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.

[ANIL S. KILOR, J.]

Digitally signed
by
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