

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

Criminal Application (BA) No.643/2022

Sandip Jagnale V State of Maharashtra thr PSO Jalalkheda, Nagpur

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri S.P. Dharmadhikari, Senior Advocate a/b Shri R.A. Bhandakkar,
Advocate for applicant.
Shri V.A. Thakare, APP for State.

CORAM : ANIL S. KILOR, J.

DATE : 07-07-2022

The applicant has approached to this Court by filing the present application under Section 439 of the Code of Criminal Procedure for grant of bail in connection with Crime No.0304/2018 dated 22-10-2018 registered with Police Station Jalalkheda, District Nagpur Gramin for the offences punishable under Sections 420, 409, 467, 468, 471 read with Section 34 of the Indian Penal Code.

2. Shri Dharmadhikari, learned Senior Advocate argues that the main accused i.e. Mrs. Nutan Rakesh Singh and Rakesh Singh both were released on bail. Whereas, if the role of the present applicant is compared with the role of those co-accused, it can be seen that there are no serious allegations made against the applicants as are made against them. Thus, he submits that the case of the present applicant is on a better footings than the accused

nos.1 and 4. Accordingly, he claims parity.

3. On merit it is submitted that the applicant is the Assistant Branch Manager and after the alleged offence departmental enquiry was conducted and in the report of the said departmental enquiry a categorical finding has been recorded in favour of the applicant that, the charges of which the applicant is found guilty are certainly serious in nature, warrant stringent penalty. However, no malafide is established in the enquiry.

4. He, thus, submits that this finding is sufficient to show that there was no malafide intention of the applicant.

5. It is further argued that the applicant has been transferred to Chennai after the alleged incident. Thus, there is no possibility that if the applicant is released on bail he may pressurize the prosecution witnesses or tamper with the prosecution evidence.

6. He points out that he was attending the duty continuously after the registration of the offence and therefore it cannot be said that the applicant was absconding.

7. It is pointed out that the applicant was arrested in the month of June 2021 from Chennai and as such he is in jail from last one year. Whereas, on completion of the investigation the

chargesheet has already been filed, as such his further custody is no more required.

8. It is argued that there is no possibility that in near future the trial will be concluded, considering the number of witnesses. Thus, he submits that keeping the applicant in jail for uncertain period would amount to pre-trial punishment. Accordingly, he prays for grant of bail.

9. The learned APP strongly opposed the application. He submits that there is a sufficient material collected by the Investigating Officer which shows the involvement of the applicant in the alleged offence. He, accordingly, prays for rejection of the present application.

10. I have perused the chargesheet and the First Information Report.

11. This Court on 14-06-2022 in Criminal Application (BA) No.520/2022, granted bail to the accused no.4 -Rakesh Singh and while granting bail this Court has considered the Forensic Audit Report and also other evidence collected by the Investigating Officer.

12. This Court in the said matter, has observed that the major portion of alleged amount of defalcation was transferred in

the accounts of 68 traders, the statements of whom were recorded in which they have admitted the receipt of the amount. This Court has further observed that the total defalcated amount is of Rs. 51,87,36,057/-, whereas the property of accused no.4 attached by the prosecution is amounting to more than Rs. 99 Crores.

13. In the said backdrop, if the findings recorded by the Enquiry Officer in the enquiry conducted against the applicant, is considered, it will be clear that the employer bank of the applicant, has categorically observed that there was no malafide intention of the applicant in the alleged fraud.

14. The applicant attended his duty continuously even after the lodgment of the report in this case. There is nothing to show that he did not attend the duty from the date of lodgment of report till his arrest. In the circumstances, it cannot be said that the applicant was absconding and therefore there is no possibility that if the applicant is released on bail he will not be available for the trial.

15. There are about 105 witnesses and considering the number of witnesses it can sufficiency be said that even if the trial commenced in near future it will take long time to conclude.

16. Furthermore, after completion of investigation the chargesheet is filed and as such the custody of the applicant is no

more required.

17. Thus, considering the observations made herein above, I am of the opinion that keeping the applicant in jail for uncertain period would amount to pre-trial punishment. In that view of the matter, I pass the following order:-

ORDER

- i) Application is allowed.
- ii) The applicant in Crime No.0304/2018 dated 22-10-2018 registered with Police Station Jalalkheda, District Nagpur Gramin for the offences punishable under Sections 420, 409, 467, 468, 471 read with Section 34 of the Indian Penal Code, be released on bail 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 on 1st day of every month till 10.00 am to 11.00 am, till the culmination of trial.

(Anil S. Kilor, J.)