

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

CRIMINAL APPLICATION (BA) NO.664 OF 2022

(NILESH SHESHRAO DHOPRE.....VS.. STATE OF MAH. THR. PSO PS JALALKHEDA, EOW
NAGPUR)

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

Court's or Judge's orders

Shri D.V.Chauhan a/w. Shri G.S.Gour, Advocates for Applicant.
Shri V.A.Thakre, A.P.P. for Non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : JULY 08, 2022.

1. Heard.
2. The applicant is seeking bail in connection with Crime No. 304 of 2018, registered with Police Station Jalalkheda, Nagpur Rural, for the offences punishable under Sections 420, 409, 467, 468, 471, 411, 413, 201, 120B read with Section 34 of the Indian Penal Code, 1860 read with Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (hereinafter referred to as "MPID Act")
3. Shri D.V.Chauhan, learned counsel for the applicant submits that the applicant has been falsely implicated in the alleged offence. He submits that the applicant was in the employment with co-accused Rakesh Singh, who has already been released on bail.
4. He further submits that after completion of investigation charge-sheet has been filed and no further custody of the applicant is necessary.

5. He has further argued that the applicant was arrested on 24th July, 2020 and almost for 2 years, the applicant is in jail.

6. Shri Thakre, learned Additional Public Prosecutor strongly opposed the application. He submits that the statement of farmers are sufficient to show the involvement of the applicant in the alleged offence, which is serious in nature.

7. It is submitted that defalcation amount is huge and though chargesheet is filed, further investigation is going on.

8. The learned Additional Public Prosecutor submits that it is an economic offence and the amount defalcated is of the farmers. Hence, he prays that this Court may not consider the prayer of the applicant for grant of bail.

9. In the light of submissions made by the learned counsel for the applicant and learned Additional Public Prosecutor, I have perused the Charge-sheet and the First Information Report.

10. It can be seen that as per the First Information Report the defalcated amount is Rs.25,11,68,500/-. Whereas, the property attached is amounting to more than 99 crores. Thus, it is clear that the property attached is worth more than the defaulted amount. There is no criminal antecedents of similar nature, to the discredit of the applicant.

11. The forensic audit report shows that major portion of alleged amount of defalcation was transferred in the accounts of 68 traders by the main accused, who is already on bail. The statement of traders available on record show that they received the amount relating to business transaction.

12. Thus, *prima facie* at this stage it cannot be said that the amount is defalcated or the applicant is beneficiary.

13. The applicant is in jail from last two years and there is no progress in the trial, even the charge is not framed. It is pointed out that there are about 105 witnesses and considering the number of witnesses even if trial commences in near future, it will take long time to conclude. Moreover, three co-accused have already been released on bail. Thus, the applicant is entitled for parity.

14. In the above referred backdrop, there is no point in keeping the applicant in jail for an uncertain period and if it is done, it will amount to punishing the applicant before he has been actually convicted on finding him guilty in the alleged offence.

15. In the above referred backdrop, I am of the opinion that the applicant is entitled for grant of bail. Accordingly, I pass the following order:

- i) Criminal application is allowed;
- ii) It is directed that the applicant shall be released on bail in Crime No. 304 of 2018, registered with Police Station, Jalalkheda, through EOW, Nagpur for the offence punishable under Sections 420, 409, 467, 468, 471, 411, 413, 201, 120B read with Section 34 of Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, on furnishing P.R.Bond of Rupees One Lakh with one or two solvent sureties 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 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;
- v) The applicant shall not leave the jurisdiction of the concerned police station without permission of the Court.

The Criminal Application is **disposed of** accordingly.

JUDGE

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