

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

Criminal Application (BA) No. 688 of 2022

Sameer Sudhir Joshi

Versus

State of Maharashtra, through Police Station Officer, Ramdaspath, Akola
Ta. And District Akola

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

Court's or Judge's Order

Shri S.V.Sirpurkar, Advocate for the applicant.

Shri V.A. Thakare, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 27th JULY, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 610 of 2017 registered with Police Station Khadan, Akola for the offence punishable under Sections 420, 468, 471, 406, 407, 408, 409, 109, 120-B read with Section 34 of Indian Penal Code.

2. The applicant, has also been arraigned in a multitude of cases namely Crime No. 348/2013, registered with Ranapratap Police Station, Nagpur, Crime No. 219/2013 registered with Khadan Police Station, Akola for the similar offences and so also in Crime No. 305/2013 registered with Rajapeth Police

Station Amravati, Crime No.337/2013 registered with Dattawadi Police Station, Pune & Crime No.82/2015 registered with Awadhutwadi Police Station, Yavatmal, and has been granted bail in those cases.

3. Mr. Sirpurkar, learned counsel for the applicant also places reliance upon the order in Criminal Application (BA) No. 399/2020 and Criminal Application (BA) No.1334/2020, in which by an order dated 24.09.2021 for similar offences in Crime Nos. 348/2013 and 219/2013, the applicant has been released on bail, considering that, the trial in those cases, was not progressing and though 56 witnesses were examined and 48 witnesses are still remained to be examined and the applicant had already undergone detention at a pre-trial stage for a period of more than eight years. The order of the Hon'ble Apex Court, in Vinay Jaidev Wasankar Vs. State of Maharashtra in SLP No. 4057/2021 dated 23.09.2021, has also been relied upon.

4. It is submitted that the trial in connection with this crime, is not yet commenced.

5. On the other hand Shri Thakre, learned Additional Public Prosecutor for the non-applicant/State, opposes the application and submits, that the applicant is accused of serious financial offences. He therefore submits, that the applicant should not be enlarged on bail.

6. It is not in dispute, that the applicant who has been arrested on 10.12.2013 in respect of the aforesaid offences has been behind bars since then. Multiple cases, have been registered against the applicant at various Police Stations for similar offences. The applicant has been granted bail in almost all other matters. It is not disputed, that the applicant has already undergone pre-trial detention of more than eight years which is a substantive sentence. Thus, considering what has been held in National Investigation Agency Vs. Areeb Ejaz Majeed, (2021 SCC Online Bom. 239, regarding the right of an accused to speedy trial and also what has been stated in the order dated 24.09.2021 in Criminal Application (BA) No. 399/2020 and Criminal Application (BA) No.1334/2020, relying upon the order of the Hon'ble Apex Court in the case of Vinay Jaidev Wasankar (Supra), in view of the fact that the applicant, has already undergone a pre-trial detention of

more than eight years and any substantial progress in the trial does not appear to be at hand or for that fact in the near future too, the further detention of the applicant does not appear to be warranted in law, in view of which, a case for grant of bail is made out. Hence the following order.

O R D E R

- i. The Criminal Application is allowed.
- ii. Applicant Sameer Sudhir Joshi, be released on bail in Crime No. 610 of 2017 registered at Police Station Khadan, Akola for the offences punishable under Sections 420, 468, 471, 406, 407, 408, 409, 109, 120-B read with Section 34 of Indian Penal Code, on his furnishing P.R. Bond in the sum of Rs. 2,00,000/- (Rs. Two Lakhs Only) with two solvent sureties of the like amount.
- iii. 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 shall not tamper with the evidence.
- iv. The Applicant shall not abscond and provide his residential address and cell number to concerned

Investigating Officer a2. The applicant, has also been arraigned in a multitude of cases namely Crime No. 348/2013, registered with Ranapratap Police Station, Nagpur, Crime No. 219/2013 registered with Khadan Police Station, Akola for the similar offences and so also in Crime No. 305/2013 registered with Rajapeth Police Station Amravati, Crime No.337/2013 registered with Dattawadi Police Station, Pune & Crime No.82/2015 registered with Awadhutwadi Police Station, Yavatmal, and has been granted bail in those cases.

3. Mr. Sirpurkar, learned counsel for the applicant also places reliance upon the order in Criminal Application (BA) No. 399/2020 and Criminal Application (BA) No.1334/2020, in which by an order dated 24.09.2021 for similar offences in Crime Nos. 348/2013 and 219/2013, the applicant has been released on bail, considering that, the trial in those cases, was not progressing and though 56 witnesses were examined and 48 witnesses are still remained to be examined and the applicant had already undergone detention at a pre-trial stage for a period of more than eight years. The order of the Hon'ble Apex Court, in Vinay Jaidev Wasankar Vs. State of Maharashtra in SLP

No. 4057/2021 dated 23.09.2021, has also been relied upon.

5. It is submitted, that in the instant case, though 57 witnesses have been cited, only one witness has been examined so far and considering the fact that the applicant has already undergone nearly about nine years pre-trial detention, it is contended, that the applicant be released on bail. It is further submitted, that there are ten number of accused and nine accused have been released on bail and the applicant is the only person facing incarceration pre-trial.

6. On the other hand Shri Thakre, learned Additional Public Prosecutor for the non-applicant/State, opposes the application and submits, that the applicant is accused of serious financial offences, in which, the applicant has lured countless persons of their hard earned money and has appropriated the same for his own use. He submits, that in the present case itself, the amount involved is around Rs.1.8 Crore and the totality of all the crimes would amount to a stupendous figure. He therefore submits, that the applicant should not be enlarged on bail.

7. It is not in dispute, that the applicant who has been arrested on 10.12.2013 in respect of the aforesaid offences has been behind bars since then. Multiple cases, have been registered against the applicant at various Police Stations for similar offences. The applicant has been granted bail in all other matters except the present one as per the statement of learned counsel for the applicant. The trial in the present case has already been commenced and till now only one witness has been examined out of 57 witnesses cited by the prosecution. It is not disputed, that the applicant has already undergone pre-trial detention of more than eight years three months as of now, which is more than 50% of the sentence, he may be required to undergo in case he is convicted and since the trial, is at a nascent stage and is likely to take considerable period of time, considering what has been held in National Investigation Agency Vs. Areeb Ejaz Majeed, (2021 SCC Online Bom. 239), regarding the right of an accused to speedy trial and also what has been stated in the order dated 24.09.2021 in Criminal Application (BA) No. 399/2020 and Criminal Application (BA) No.1334/2020, relying upon the order of the Hon'ble Apex Court in the case of Vinay Jaidev Wasankar (Supra), in view of the fact that the applicant, has

already undergone a pre-trial detention of eight years and three months and any substantial progress in the trial does not appear to be at hand or for that fact in the near future too, the further detention of the applicant does not appear to be warranted in law, in view of which, a case for grant of bail is made out. Hence the following order.

O R D E Rnd shall not change his place of residence without prior intimation to the concerned Investigating Officer.

v. The Applicant shall surrender his passport to the Investigating Officer within one week of his release and shall not leave the Country without prior permission of the trial Court.

vi. The Applicant shall attend each and every date of hearing of the proceedings before the concerned Court and shall ensure that the trial is not prolonged or protracted on his count.

vii. Breach of any of the above conditions, would give liberty to the prosecution to move the Court for cancellation of bail.

viii. The Trial Court is directed to expedite the trial and to decide the same within a period of one year from the date of production of the order of this Court before it, which the learned APP is directed to do within a week from today.

[ANIL S. KILOR, J.]

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