

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

CRIMINAL APPLICATION (ABA) NO. 437/2022

Nitesh s/o Daryav Bisen **Versus** State of Maharashtra

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

Court's or Judge's Order

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

Shri A.M.Deshpande, APP for the Non-applicant/State.

Shri S.A. Walde, Advocate for Assist to Prosecution.

CORAM : ANIL S. KILOR, J.

DATED : 18/07/2022

1. The applicant is seeking pre-arrest bail in Crime No. 469/2021, registered with Police Station Ramnagar, District Gondia, for the offences punishable under Sections 420, 409, 467, 468 and 471 read with Section 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act.

2. Shri V.S.Mishra, learned advocate for the applicant submits that he is the Director of the Society against whom the allegations of defalcation of Rs. 58 Lakhs is being made. He submits that one of the Directors has already granted pre-arrest bail by this Court vide order dated 28/02/2022 in Anticipatory Bail Application (ABA) No. 41/2022. Thus, he submits that the applicant is entitled for pre-arrest bail on parity.

3. Shri V.S. Mishra, learned advocate for the applicant further submits that there is nothing against the applicant to show his involvement in the alleged offence.

4. Lastly, he argues that whatever documents the prosecution is relying upon, having signatures of the applicant, though signatures were made by the applicant it was made in a capacity of the witnesses to those documents and not in any official capacity. He, therefore, submits that the applicant may be released on pre-arrest bail.

5. On the other hand, learned APP strongly opposed the present application. He has pointed out from the case diary, the documents containing the signatures of the applicant and in one of the documents he is an Executor. Accordingly, he prays for rejection of the present application, as custodial interrogation is necessary.

6. The learned Advocate who is assisting the prosecution and appearing on behalf of the complainant, reiterates the submission of the learned APP and prays for rejection of the present application.

7. I have perused the Case-Diary and the FIR.

8. In the case of one of the Directors, namely Prakash Wadichar while granting pre-arrest bail, this Court has observed that nothing has been pointed out by the prosecution to show the involvement of the applicant in any decision making and no resolution has been pointed out having signature of the applicant.

9. In this case, there are documents showing the involvement of the applicant in decision making. Moreover, he has signed certain documents which show his role in the society. Thus, the applicant cannot claim parity with the other Director i.e. Prakash Wadichar.

10. The investigating officer during the investigation has collected the incriminating material against the applicant showing his involvement in the alleged offence. As observed *prima-facie* there are documents having signature of the applicant and in one of the documents, the applicant has signed as an Executor of the said document.

11. In the circumstances, whether the applicant has signed those document as a witness or the Director or in any other capacity, is a matter of interrogation and investigation.

12. At this stage, as sufficient incriminating material is there, to *prima-facie* show the applicant's involvement, I find substance in the submission of the learned APP that being Economic Offence and considering the amount involved in the alleged offence, custodial interrogation of applicant is necessary. Accordingly, I pass the following order :

Criminal Application is **rejected**.

[ANIL S. KILOR, J.]