

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

Criminal Application (BA) No.1053/2021

Amol Pandurang Mujmule V State of Maharashtra thr PSO PS Arni, Yavatmal

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

Court's or Judge's Orders

Mr. S.P. Dharmadhikari, Senior Advocate a/b Mr. K.N. Shukul, Advocate for
applicant.

Mr. V.A Thakare, APP for State.

CORAM : ANIL S. KILOR, J.

DATE : 23-06-2022

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.0137/2021 dated 18-03-2021 registered with Police Station Arni, District Yavatmal, for the offences punishable under Sections 406, 409, 420, 467, 468, 469, 471, 477-A read with Section 34 of the Indian Penal Code.

2. Mr. S.P. Dharmadhikari, learned Senior Advocate for the applicant submits that the total defalcated amount is within the vicinity of Rs. 6 Crore and odd. Whereas, it is the case of the prosecution that amount of Rs. 24 Lakh was in the bank account of the applicant. He further points out that the said amount of Rs. 24 Lakh is not of a particular period, but it is the total of all cumulative entries. He, thus, submits that considering the total

defalcated amount and the amount found in the bank account of the applicant, it can *prima facie* be said that it is not sufficient to show the involvement of the applicant.

3. He further submits that, the admitted and the disputed handwriting of the applicant, were forwarded to the Handwriting Expert for his opinion. Accordingly, the Handwriting Expert submitted his report, opining that, handwriting on two deposit slips matches with the handwriting of the applicant. It is submitted that there is no allegation that the amount mentioned in those two deposit slips, was not deposited by the applicant.

4. He further submits that the First Information Report (FIR) consists of broadly three allegations; (i) the accused persons by making forged signatures on the vouchers and cheques withdrew the amount, (ii) unauthorized entries were made in the account of the customers without their knowledge and (iii) without making deposits, it was shown that the deposits were made in the account of the customers.

5. He submits that except the amount which was in the account of the applicant at the relevant time, there is nothing to implicate the applicant in the alleged offence. Mr. S.P. Dharmadhikari, learned Senior Advocate lastly argues that the applicant is in jail from last 1 year and 3 months and as such the investigation has been completed and further custody of the

applicant is not required.

6. He points out that as per the chargesheet, the total witnesses are 136 to which 120 witnesses were added after supplementary chargesheet. He, therefore, submits that though the trial has commenced, it will take long time to conclude as the only six witnesses are examined so far. In the circumstances, he submits that keeping the applicant in jail for uncertain period will amount to pre-trial punishment. Accordingly, he prays for grant of bail to the applicant.

7. On the other hand, the learned APP strongly opposed the application and submitted that there are statements of the witnesses who are the customers of the bank and in their statements the witnesses have specifically stated the role of the applicant in the alleged offence. He further points out that the applicant was found with Rs. 30 Lakh in a Gunny bag. According to him, the said fact is sufficient to show the involvement of the applicant in the alleged offence.

8. In reply, Mr. S.P. Dharmadhikari, learned Senior Advocate for the applicant points out that there is no such allegation or any material available in the chargesheet.

9. Learned APP further points out that as the trial has already commenced, this Court may not grant bail to the applicant

as there is a possibility that the applicant may pressurize the witnesses. Accordingly, he prays for rejection of the present application.

10. I have perused the chargesheet and the First Information Report (FIR).

The applicant is in jail from last 1 year and 3 months. In this case, the investigation is over and the chargesheet has been filed. The report of the Handwriting Expert shows that the handwriting of the applicant matches with the handwriting on two deposit slips. There is nothing to show that the amount mentioned in those deposit slips, was not deposited by the applicant in the account of the customers. As far as the amount of Rs. 24 Lakh and odd found in the account of the applicant is concerned, prima facie, there is nothing to show that this amount was received by the applicant in the alleged offence.

11. In the present matter, though the trial is commenced, only six witnesses are examined so far and there are about 256 total witnesses. The total number of witnesses to be examined is sufficient to say that it will take long time to conclude the trial. In the circumstances, as the further custody of the applicant is not necessary, in the above referred backdrop, there is no point in keeping the applicant in jail for uncertain period. Otherwise, it would amount to pre-trial punishment.

12. This Court has granted bail to the Manager i.e. accused no.1. In that view of the matter, the applicant who is the Accountant, is entitled for bail on parity.

13. In the circumstances, I am of the opinion that with some stringent conditions, bail should be granted to the applicant. Hence, I pass the following order:-

ORDER

- i) Application is allowed.
- ii) The applicant in Crime No.0137/2021 dated 18-03-2021 registered with Police Station Arni, District Yavatmal for the offences punishable under Sections 406, 409, 420, 467, 468, 469, 471, 477-A 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 cooperate in trial and attend on every date.
- iv) The applicant shall not pressurize the prosecution witnesses or tamper with the prosecution evidence.
- v) The State is at liberty to move the application for cancellation of bail, in case, the applicant breaches any of

the conditions referred above.

vi) Application stands disposed of.

(Anil S. Kilor, J.)