

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

Criminal Application (BA) No.1257/2021

Ankit Dipak Mirase 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.V. Sirpurkar, 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. The learned Counsel for the applicant submits that the applicant is a Clerk and he was appointed on contractual basis and the amount found in his account, the same can be accounted for during the trial. He, thus, submitted that considering the total defalcated amount and the amount found in the bank account of the applicant, it can *prima facie* be said that the said amount it is not sufficient to show the involvement of the applicant.

3. The learned Counsel for the applicant lastly argues that the applicant is in jail from last 1 year and 3 months and as such the investigation has already been completed and further custody of the applicant is not required. 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.

4. 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 are specifically stated the role of the applicant. According to him, the said fact is sufficient to show the involvement of the applicant in the alleged offence.

5. 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.

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

7. 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. Looking to the total defalcated amount and the amount found in the account of the applicant, prima facie, it does not show that the amount received by the applicant is from the alleged offence.

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

9. Moreover, in the present matter, though the trial is commenced, only six witnesses are examined so far and there are about 256 total witnesses, the number of total 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.

10. 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 attend the concerned Police Station as and when required by the Investigating Officer.

iv) The applicant shall not pressurize the prosecution witnesses or tamper with the prosecution evidence.

v) The applicant shall not enter within the vicinity of Arni, District Yavatmal, till completion of trial, except for the purposes of attendance in trial.

vi) The State is at liberty to move the application for cancellation of bail, in case, the applicant breaches any of the conditions referred above.

vii) Application stands disposed of.

(Anil S. Kilor, J.)