

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

Criminal Application (BA) No. 1214 of 2022

Yogesh S/o Marotrao Rehapade and another

Versus

State of Maharashtra, through Police Station Officer, Police Station
Gadchiroli, Tah. & Dist. Gadchiroli

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

Court's or Judge's Order

Shri S.K.Bhandarkar, Advocate for the applicant.

Shri N.R.Rode, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 7th DECEMBER, 2022.

1. The applicants are seeking bail in Crime No. 671 of 2017, registered with Police Station Gadchiroli, Dist. Gadchiroli for the offences punishable under Sections 406 and 420 read with Section 34 of the Indian Penal Code and Section 3 of Maharashtra Protection of Depositors Act, 1999.

2. Shri Bhandarkar, learned counsel for the applicants submits that the applicants are in jail from more than last two and half years and there is no possibility that in near future the trial will commence.

3. It is further submitted that if the trial is not over within near future and the applicant continued in jail, it will amount to pre-trial punishment.

4. Shri Bhandarkar, learned counsel for the applicants further submits that in this case, the charge-sheet has been filed, after completion of investigation and as such, the custody of the applicant is not necessary.

5. On the other hand, Shri Rode, learned APP strongly opposes the present application and submits that looking to the seriousness of the offences and antecedents, the present application may be rejected.

6. This Court in similar offence registered against the applicant under Section 420 and 406 vide Crime No.119 of 2019 has observed thus:

“7. I have perused the material in the charge-sheet and while the learned APP Mr. Rao is justified in submitting that there is a strong prima facie case, bail cannot be rejected, particularly if the offence entails maximum punishment of seven years, only on the ground of existence of strong prima facie. The applicant is in custody since 26.11.2019, considering the work pressure on the Special Court, the girth of the charge-sheet and the number of witnesses cited, it would be utopian to expect an early trial. Unless there are compelling reasons to deny bail, ordinarily bail must follow as a rule, lest the incarceration is rendered a pre-trial punishment.

8. I have noted that there are four other offences which are registered at different police stations and in one of

the crimes section 409 of IPC is invoked. The learned prosecutor Mr. Rao states that the four crimes which are registered involve similar modus operandi and are registered on the basis of the complaints of the investors of the particular area of operation of the concerns floated by the applicant. Notably, even accordingly to the prosecution the applicant opened as many as nineteen branches across the length and breadth of Vidarbha. The applicant is not before me seeking bail in the other offences and as and when the applicant seeks bail, before the appropriate forum, his entitlement to bail in the other offences will be decided on its own merit and uninfluenced by any observation made in this order which is restricted to Crime 191/2019.

9. Considering the factual matrix on the touchstone of the enunciation of the Hon'ble Supreme Court in P. Chidambaram v. Directorate of Enforcement (2020) 13 SCC 791 and Sanjay Chandra v. Central Bureau of Investigation (2012) 1 SCC 40, I am inclined to grant bail."

7. Similar is the position in this case. In this case, the applicants are in jail from more than last two and half years. The status report which was called by this Court from the learned trial Court shows that even the charge is not framed so far and looking to the number of witnesses which are more than 160 witnesses, it is not possible that the trial will conclude in near future. In the circumstances, I am of the opinion that the applicants are entitled for grant of bail. Accordingly, I pass the following order:

- a) The criminal application is allowed.
- b) It is directed that the applicants shall be released on bail in Crime No. 671 of 2017, registered with Police Station Gadchiroli, Dist. Gadchiroli, for the offences punishable under Sections 406 and 420 read with Section 34 of the Indian Penal Code and Section 3 of Maharashtra Protection of Depositors Act, 1999, on furnishing P.R. Bond of Rs.25,000/- each with one solvent surety each in the like amount.
- c) The applicants shall report at the concerned Police Station on the 15th and 30th day of every month.
- d) The applicants shall, within forty-eight hours of release, furnish to the Investigating Officer his current address and phone numbers and shall update the Investigating Officer of any change.
- e) The applicants shall not tamper with the prosecution witnesses.
- f) The applicants shall not leave the jurisdiction of the concerned Police station without permission of the Court.
- g) Considering the antecedents, the trial Court is requested to expedite the trial.

The criminal application is disposed of, accordingly

[ANIL S. KILOR, J.]

Digitally signed
by
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