

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

CRIMINAL APPLICATION (BA) NO.1228 OF 2022

Mangesh Gangadharrao Utane Vs. State of Maharashtra, through PSO, PS
Gadge Nagar, Amravati

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Shri Anil Mardikar, Senior Advocate with Ms Rani Nitnaware,
Advocate for applicant.

Shri S.D. Sirpurkar APP for non-applicant/respondent.

CORAM : G.A. SANAP, J.

DATE : NOVEMBER 11, 2022.

The applicant has been arrested in crime bearing No.4/2022 registered at Police Station Gadge Nagar Amravati for the offences punishable under Sections 419, 420, 465, 468, 471 read with Section 34 of the Indian Penal Code.

2. It is the case of the applicant that Amol Ambadas Dhobale and Dr. Ravi Shankar Prajapati have been granted anticipatory bail. The role attributed to them and the role attributed to the applicant is identical. It is stated that therefore, on the ground of parity, he is entitled for bail. It is further his case that investigation in crime is over. Charge-sheet has been filed. His incarceration is not necessary either for investigation or custodial interrogation. According to him, he has not committed the offence. He has been falsely

implicated in this case. He is ready to abide by all the conditions that may be imposed by this Court.

3. The Investigating Officer has filed reply and opposed the application. It is contended that this applicant and other remaining accused in furtherance of their common intention prepared forged documents in the name of the informant and transferred the property owned by the informant. Wrongful loss has been caused to the informant. There has been wrongful gain to the applicant and other remaining accused. This applicant has played main role in the commission of crime. He has criminal antecedents. The possibility of commission of similar offence so also the possibility of tampering with prosecution witnesses cannot be ruled out, if applicant is enlarged on bail.

4. Heard Shri Anil Mardikar learned Senior Advocate and Shri S.D. Sirpurkar, learned APP for the State.

5. It is undisputed that the charge-sheet in this case was filed on 08.08.2022. Though some of the offences are non bailable but those are triable by Judicial Magistrate First Class. It is also undisputed that accused Nos. 3 and 4 have been granted anticipatory bail by this Court. It can be seen on perusal of the record that the role attributed in the commission of crime to this accused and the accused No.4 is identical to some extent. The applicant/accused in the

backdrop of filing of charge-sheet is invoking the principle of parity.

6. At the stage of hearing of the bail application, the merits of the main matter cannot be gone into. Generally seriousness of crime, the stage of investigation, the possibility of the accused fleeing from justice and possibility of tampering with the prosecution evidence if bail is granted to the accused are required to be considered. In this case, the major evidence is in the form of documents. The charge-sheet has been filed after completion of investigation. The charge has not yet been framed. In the assessment of this Court the conclusion of the trial would not be possible in the near future. Therefore, the question is whether in the teeth of the above position, the detention of the applicant is warranted or not.

7. In my view even though the criminal antecedents of the applicants are brought on record, the answer to this issue must be in the affirmative. No fruitful purpose would be served by keeping the applicant in jail. The apprehension expressed by the prosecution can be taken care of by imposing appropriate conditions. Based on the apprehension put forth by the prosecution the bail cannot be denied.

8. In the facts and circumstances of the case, in my view subject to appropriate conditions, the bail can be granted

to the applicant.

9. Hence, I pass the following orders:

ORDER

- i. The criminal application is allowed.
- ii. The applicant **Mangesh Gangadharrao Utane** be released on bail in connection with Crime No.4/2022 registered at Police Station, Gadge Nagar, Amravati on his furnishing PR bond in the sum of Rs.25,000/- with one surety in the like amount.
- iii. The applicant shall not tamper with the prosecution evidence.
- iv. He shall not threaten or pressurize the prosecution witnesses in any manner.
- v. The applicant shall not indulge in similar crime.

With these directions, the application stands **disposed of.**

JUDGE

manisha

Signed By:MANISHA ALOK
SHEWALE

Signing Date:11.11.2022 18:31