

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.2363 OF 2023

Nilesh Tanaji Nighot

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr. Satyam H. Nimbalkar a/w Omkar R. Chitale a/w Abhishek U. Arote, Advocate for Applicant.
- Mr. Yogesh Y. Dabke, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 06th NOVEMBER, 2023

P.C. :

1. This the second occasion on which the Applicant has approached this Court for his release on bail. Earlier the Applicant had filed Criminal Bail Application No.121 of 2020. At that stage, the charge was already framed. Therefore, learned counsel for the Applicant did not press that application. He sought direction to complete the trial within a period of one year from the date of the order i.e. 17/07/2021 on which date Criminal Bail Application No.121 of 2020 was disposed of. After

passing of that order, more than two years have passed and the trial is not yet over. Thus, the trial is not completed within a period of one year as was directed vide order dated 17/07/2021. In this view of the matter, I have considered this Bail Application.

2. The prosecution story is reflected in the column 16 of the charge-sheet. The allegations in the charge-sheet are that he was working as a cashier with Nighotwadi Gramin Bigarsheti Sahakari Patsanstha Maryadit, Manchar, Taluka Ambegaon, District Pune. The Credit Society had given him responsibility for distributing loan on accepting gold as a security. But he committed misappropriation in respect of 64 such transactions. The allegations are that he misappropriated Rs.1,30,88,166/-. The offence was committed in different ways. He was handed over the keys of lockers. He removed the gold kept as security and pledged that gold itself with the other entities and obtained loan. In certain cases, he handed over the gold to others, and obtained money, but that money was not deposited with the

Credit Society. He credited false loan transactions in his own name and in the name of others. He used the same gold which was taken as security in some transactions and showed them as a security in other transactions. On some occasions he removed money from account holders. Based on these allegations, the FIR was lodged against him, vide C.R.No.222/2019 at Manchar police station on 23/05/2019 u/s 406, 408, 409, 420 of the Indian Penal Code. The investigation was carried out and the charge-sheet was filed. As mentioned earlier, the charge was framed a long time ago. PW.1 Bangar's examination-in-chief started on 14/10/2021 and his examination is concluded in June 2023. After that, a few more witnesses are examined, but the trial is not concluded. Learned APP on instructions states that it will take at least 4 to 6 months to complete the examination of the necessary witnesses.

3. The Applicant is already in custody since 23/05/2019. Thus, more than 4 ½ years have passed. As per the learned APP at least six months more would be required to complete the

recording of evidence. Then there will be recording of statement u/s 313 of Cr.P.C. leading defence evidence if any and then the arguments. It will take further time. Thus, at least nine months to one year period would be further required. The learned Magistrate is trying the Applicant for commission of offence punishable u/s 406, 408, 409 and 420 of the Indian Penal Code. Out of which, section 409 is punishable with life imprisonment. The other sentence can be for maximum 7 years for the other major offence u/s 420 of the Indian Penal Code. The Applicant is already in custody for more than 4 ½ years. Thus, though there are serious circumstances against the Applicant, he has spent substantial period in custody. Therefore, on this ground alone, I am inclined to grant bail to the present Applicant.

4. Hence, the following order :

ORDER

- (i) The Applicant is directed to be released on bail on his furnishing P.R. bond in the sum of

Rs.50,000/- (Rupees Fifty Thousand only) with one or two sureties in the like amount.

- (ii) It is made clear that the trial shall continue as it is a part heard case.
- (iii) The prosecution as well as the Applicant shall co-operate with the expeditious disposal of the trial.
- (iv) The application is disposed of.

(SARANG V. KOTWAL, J.)