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

CRIMINAL APPLICATION (BA) NO.281 OF 2023
(Vikram Laxman Naik Vs. State of Maharashtra)

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

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Shri R.H. Rawlani, Advocate for the applicant.
Shri A.M. Kadukar, APP for the non-applicants/State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JUNE 08, 2023.

Heard.

2. Present application is filed by the applicant for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.251/2020 registered at police station Ranapratap Nagar, Nagpur for the offence punishable under Sections 420, 406, 409 and 120-B read with Section 34 of the Indian Penal Code and Section 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishment) Act, 1999 and Section 45(S) of the Reserve Bank of India Act, 1934.

3. The applicant is arrested on 13/08/2021, since then he is in jail. The maximum punishment provided is seven years. He further submitted that other co-accused to whom the similar role is assigned are already released on bail, therefore, on the ground of parity present applicant is also to be released on bail. He further submitted that only allegation against the present applicant is that being an Agent he has collected the

amount. In fact, he has refunded the some amount to the depositors. Now the investigation is completed and the charge-sheet is filed. Considering he is already in jail for substantive period, he be released on bail.

4. On the other hand, learned Additional Public Prosecutor strongly opposed the present application and submits that though maximum punishment is provided of seven years however, looking into the amount involved is about Rs.66,13,48,278/- in the alleged offence, hence the application deserves to be rejected.

5. The applicant was an Agent of the said Company and has collected the amount from the depositors and hence, prayed for the rejection of the present application.

6. Having heard both the sides and on perusal of the investigation papers it reveals that the entire investigation is already completed. So far as the offence under Section 420 of the Indian Penal Code is concerned, the maximum punishment is seven years. Further it is apparent that the only allegation against the present applicant is that he has collected the money as an Agent. Learned Counsel further pointed out that he has already refunded some amount to the depositors.

7. Learned Additional Public Prosecutor has not disputed that he is in jail since 13/08/2021 and near about 197 witnesses statements are recorded by the Investigating Officer.

8. The Hon'ble Apex Court in the case of ***Union of India Vs. K.A. Najeeb [(2021) 3 SCC 713]*** observed that:

> *"15. This Court has clarified in numerous judgments that the liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In Supreme Court Legal Aid Committee (Representing Undertrial Prisoners) V/s Union of India, it was held that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter. However, owing to the practicalities of real life where to secure an effective trial and to ameliorate the risk to society in case a potential criminal is left at large pending trial, the courts are tasked with deciding whether an individual ought to be released pending trial or not. Once it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.*

9. In the light of the above referred observation made by the Hon'ble Apex Court that similar circumstanced co-accused are already released on bail in various application, hence the present

applicant who is similarly situated is also entitled for bail on the ground of parity.

10. The only routine objections are raised by the Prosecution that if the applicant is released on bail he will pressurize the prosecution witnesses and will not be available for trial. In the above referred backdrop, further custody of the present applicant is not required. There is no criminal antecedents against the present applicant.

11. In view of the matter, the application deserves to be allowed by imposing certain conditions. Hence, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant - Vikram Laxman Naik in the event of arrest in Crime No.251/2020 registered at police station Ranapratap Nagar, Nagpur for the offence punishable under Sections 420, 406, 409 and 120-B read with Section 34 of the Indian Penal Code and Section 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishment) Act, 1999 and Section 45(S) of the Reserve Bank of India Act, 1934, be released on bail on executing P.R. Bond in the sum of Rs.25,000/- (Rs. Twenty five thousand) with one or two sureties in the like amount.

(iii) The applicant shall furnish his cell phone number and detail address along with address proof.

(iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.

(v) The applicant shall not involved himself in committing similar type of offence, on finding the same, the State is at liberty to apply for the appropriate proceeding.

(URMILA JOSHI-PHALKE, J.)

*Divya