

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

CRIMINAL APPLICATION (BA) NO.307 OF 2023

(DIGAMBAR ANANDRAO YEOLE....VS.. STATE OF MAH. THR. PSO PS WATHODA, NAGPUR)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri D.V.Chauhan, Advocate for Applicant.
Ms H.N.Jaipurkar, A.P.P. for Non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : JULY 12, 2023.

1. Heard.

2. The applicant is seeking bail in Crime No. 0425 of 2020, registered with Police Station, Wathoda, Nagpur City, for the offences punishable under Sections 409, 420, 467, 468, 469, 471, 120B and 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

3. It is the case of the prosecution that during the audit of Vishwakarma Gramin Bigar Sheti Sahakari Pat Sanstha Maryadit it was revealed that the President, Vice-President, Manager (present applicant), Accountant and other Directors of the Society accepted huge sum in the form of deposits from the members on the assurance of better returns on the due date and failed to repay the amount.

4. As far as present applicant is concerned, during the audit, it is revealed that being Manager he disbursed the home loans and other loans, fixed deposits, secured loan without following the norms and thereby committed irregularity in the day to day transaction of the society. Accordingly, the F.I.R. was registered.

5. During the investigation, it was revealed that the applicant, in connivance with the Accountant, misappropriated the amount to the tune of Rs.2,22,80,710/- and thereby cheated the investors.

6. The applicant was arrested on 30/01/2021 and he is in jail since last 2½ years. The Accountant was released on bail by this Court on 26/06/2023.

7. The applicant herein had approached this Court earlier by filing Criminal Application (BA) No.997 of 2022, which was withdrawn by the applicant on showing disinclination by the Court to grant bail. Nonetheless, the liberty was granted to move after four months if the trial is not commenced. Thus, the applicant has approached this Court by this successive application. It is pointed out that there is no progress in the trial as it is not yet commenced.

8. In the present matter, the President, Vice-President and Directors are released on bail and the charge-sheet has already been filed.

9. The coordinate bench of this Court, while granting bail to the Manager, vide order dated 26/06/2023, after considering the judgment of the Hon'ble Apex Court in the case of *P. Chidambaram ..vs.. Directorate of Enforcement*, reported in (2020) 13 SCC 791, has observed thus :

“10. It is held by the Hon'ble Apex Court that the The grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to assure that he will submit to the jurisdiction of the court and be in attendance thereon whenever his presence is required.

11. It is further observed by the Hon'ble Apex Court that “we are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge-sheet is already filed before the Special Judge. Therefore, their presence in the custody may not be necessary for further investigation.”

10. In view of the above referred observations and considering the fact that the President and Vice-President, Directors and Accountant are released on bail, coupled with the fact that the charge-sheet is filed. I am of the opinion that the applicant should be released on bail.

11. No doubt that the learned A.P.P. is strongly opposing the present application considering the fact that a huge amount of the depositors has been defalcated. However, at the same time, it cannot be ignored that the applicant is in jail from last more than 2½ years and there is no progress in the trial. If the number of prosecution witnesses are taken into consideration, there is no possibility that in near future the trial would be concluded.

12. In the circumstances, I am of the opinion that, if certain stringent conditions are imposed, the presence of the applicant for the trial can be secured. Accordingly, I pass the following order :

- i) The application is allowed;
- ii) It is directed that the applicant shall be released on bail in Crime No.0425 of 2020, registered with Police Station, Wathoda, Nagpur City, for the offences punishable under Sections 409, 420, 467, 468, 469, 471, 120B and 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of

Depositors (In Financial Establishments) Act, 1999, on furnishing P.R.Bond of Rupees Fifty Thousand with one solvent surety in the like amount;

- iii) The applicant shall attend the office of Economic Offence Wing every Monday between 10:00 a.m. and 11:00 a.m.
- iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- iv) The applicant shall attend the trial Court on each and every date unless exempted.

The Criminal Application is **disposed of** accordingly.

JUDGE

RRaut..