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

CRIMINAL APPLICATION (BA) NO.804 OF 2023
(Rakesh s/o Ramkishor Khurana Vs. State of Maharashtra thr. PSO PS Kelwad, (Nagpur Rural) and EOW, Nagpur Rural, Dist. Nagpur)

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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Mr. J. M. Gandhi, Advocate for applicant.
Mrs. D. I. Charlawar, A.P.P. for the non-Applicant/State

CORAM	:	**URMILA JOSHI-PHALKE, J.**
RESERVED ON	:	**DECEMBER 18, 2023.**
PRONOUNCED ON	:	**DECEMBER 21, 2023.**

By this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.09/2022, registered with Police Station Kelwad, District Nagpur for the offence punishable under Sections 406, 411, 413, 420, 467, 468, 471, 120B and 201 of the Indian Penal Code.

2. The applicant is arrested on 10/01/2023. Since then he is behind bar.

3. The accusation against the present applicant is on the basis of report lodged by Satish Prakash Adhe on an allegation that his wife has completed her education B.E., M.Tech and unemployed and was in search of Government service. One Ramesh Kamone introduced him to one Shilpa Rajeev Palparthi resident of Manewada, Nagpur and disclosed that they can secure employment for his wife either in Western Coalfields Ltd. (WCL) Nagpur or in State Bank of India and demanded

Rs.10,00,000/-. He paid sum of Rs.2,38,000/- by NEFT by crediting the same to the account of Ramesh Kamone. On 29/05/2020, co-accused Shilpa had again contacted him and expressed about the availability of the job to the post of Clerk with Western Coalfields Ltd. and one Amit Kove who was along with her had demanded Rs. 2,00,000/- for the same. He had also paid Rs.3,73,000/- in cash and Rs.2,12,000/- by NEFT in the account of said Shilpa. Thus, he has paid Rs.5,85,000/- to the said Shilpa. On 12/06/2020, his wife had received an interview letter on her e-mail from Western Coalfields Ltd. (WCL) and was called for verification of documents. Accordingly, the complainant has visited the office of Western Coalfields Ltd. (WCL) where said Shilpa was present but the interview was not taken. Subsequently, said Shilpa again informed him that some posts are vacant in the State Bank of India and asked him to visit Delhi. Accordingly, he visited Delhi along with his wife. Said Shilpa has taken the wife of the complainant to the main office of State Bank of India and informed that she has to collect the appointment letter from the branch at Jeevantara building, Delhi. Accordingly, they visited there and one Clerk handed over the appointment letter. Thereafter complainant along with his wife returned to Nagpur and went at Aurangabad CIDCO branch to join. It was informed to them that the appointment letter issued to them is a fake and fraudulent document. Therefore, he approached to the police and lodged the report.

4. After registration of the crime, during investigation, it revealed that present applicant is the main accused who has run the job racket along with the co-accused. During investigation, 52 persons came forward and gave statement that they are also duped by the present applicant and other accused persons on the pretext of providing a job at Western Coalfields Ltd. (WCL), State Bank of India and Railway by obtaining the amount. The amount involved is Rs.3,93,72,990/-. The applicant who was an employee of Western Coalfields Ltd. (WCL) and it revealed to the Western Coalfields Ltd. (WCL) that by misusing the position he has obtained the money by promising to give the job in the Western Coalfields Ltd. (WCL), therefore, he was dismissed from the service.

5. Learned Counsel Mr. Gandhi for the applicant submitted that as far as the present applicant is concerned he is not connected with this crime. There is no direct evidence against him to connect him. His pre-arrest bail is rejected, and therefore, he was arrested on 10/01/2023, since the date of arrest he is behind bar. In the FIR, no role is attributed to him. The factual aspects on record clearly revealed that it is an attempt to implicate the present applicant on the basis of false allegations. All the offences except Section 413 are punishable with imprisonment less than 7 years. Now, investigation is completed and charge-sheet is filed. In view of that, he be released on bail.

6. In support of his contention he placed reliance on the following judgments :

1) *Rajendra Prakash Agrawal Vs. UOI and anr. [2015 ALL SCR 3833]*
2) *Dnyaneshwar Vs. The State of Maharashtra [2023 SAR (Cri) 258]*
3) *Shri Amit Anand Pai Raikar @ Amil Pai Vs. The State of Goa and anr. [2016 ALL MR (Cri) 268]*
4) *Khemlo Sakharam Sawant Vs. State [2002 (1) Bom.C.R. 689]*
5) *Rajesh s/o Malleshyam Bogul Vs. The State of Maharashtra [2020 ALL MR (Cri) 2845]*
6) *S. Kasi Vs. State through Inspector of Police, Samaynallur Police Station, Madurai District [(2021) 12 SCC 1]*
7) *Rajesh Gevarchand Luniya Vs. State of Maharashtra [2015(2) Crimes 365 (Bom.)]*
8) *Satender Kumar Antil Vs. Central Bureau of Investigation, [(2022) 10 SCC 51]*

7. *Per contra*, learned Additional Public Prosecutor submitted that in all 98 persons are duped by the present applicant by taking the disadvantage of his position in Western Coalfields Ltd. (WCL). During investigation, the Investigating Officer has collected the list of 96 candidates signed by IAS officer. The test identification parade was conducted and the present applicant was identified. The inquiry report of the Western

Coalfields Ltd. (WCL) shows that applicant was dismissed on the ground that he had obtained the money from various persons on the assurance of providing job. There are criminal antecedents against the present applicant. In view of that, the application deserves to be rejected.

8. In support of the contention, learned Additional Public Prosecutor placed reliance on ***Ram Govind Upadhyay Vs. Sudarshan Singh and ors. [(2002) 3 SCC 598]*** and submitted that the Court should exercise the discretion in a judicious manner by taking into consideration the factors that the nature of accusation, reasonable apprehension of tampering with the witnesses, *prima facie* satisfaction of the Court in support of the charge.

9. After hearing the learned Counsel for the applicant and after perusal of the entire charge-sheet it reveals that as per the allegation in the FIR by one Satish Adhe that one Ramesh Kamone and co-accused Shilpa approached to him and assured that they will provide a job and obtained money from him. The forged appointment letter was issued to the wife of the complainant. Thus, the complainant was duped by obtaining the money and by issuing the forged appointment letter. Initially, the offence was registered at Kelwad police station which was subsequently transferred to the Economic Offence Wing (EOW) and supplementary statements are recorded. As per the supplementary statement, co-accused Shilpa introduced the applicant to

them as an officer of Western Coalfields Ltd. (WCL) and the applicant assured that he would help the complainant in getting the job. The applicant also assured that they would get the job and handed over the interview letter scheduled on 20/08/2020.

10. During investigation, it revealed that it was the present applicant who was running the said racket along with the co-accused. More than 52 persons came forwarded and gave a statement that the applicant and other co-accused on the pretext of providing job in the Western Coalfields Ltd. (WCL), State Bank of India as well as Government undertaking Railway and obtained the amount. The amount involved is Rs.3,93,72,990/-. The Western Coalfields Ltd. (WCL) has conducted the enquiry and dismissed the present applicant from the job. During investigation, the Investigating Officer has also collected the forged documents and verified the same and it revealed that the present applicant has played a vital role in preparing the forged documents. During investigation, it further revealed that in all 96 candidates were duped by the present applicant by giving false promise of providing job, out of them 2 persons have committed the suicide as they were duped. From the investigation papers, it further revealed that while he was serving as an Account Manager in a Western Coalfields Ltd. (WCL) he obtained the amount of Rs.3,00,000/-, and therefore, he is dismissed from the Western Coalfields Ltd. (WCL). During inquiry with him, the Investigating Officer has also collected

various appointment letters having seals and signatures of the competent authority of Railway Kolkata Division.

11. Present applicant is also identified by the witnesses during investigation. Against the present applicant in all four offences are registered of the similar nature under Section 406 and 420 of the Indian Penal Code. Thus, from the investigation papers it reveals that the present applicant has not only accepted the amount on the pretext of providing the job but also prepared the false appointment letter, forged interview letters. From the statements of some of the witnesses, it further revealed that some of the candidates are called by him for the written examination and interviews and shown that he has conducted their examination as an officer of Western Coalfields Ltd. (WCL) and duped them. Thus, the *prima facie* material collected during the investigation shows the involvement of the present applicant in the alleged offence. Admittedly, the nature of the offence is in the nature of economic offence.

12. It is well settled position of law that jurisdiction to grant bail has to be exercised having regard to the facts and circumstances of cases. The factors to be taken into consideration are; 1) the nature of accusations and severity of the punishment; 2) reasonable apprehension of tampering with witnesses; 3) reasonable possibility of securing presence of accused, and 4) character, behaviour and standard of accused.

Each case has to be considered on its own merits.

13. In the present case, considering the nature of the crime, huge amount is involved. The Honourable Apex Court, while dealing with offence, involving conspiracy to commit economic offences of huge magnitude, in the case of ***Y.S.Jagan Mohan Reddy vs. CBI, [(2013)7 SCC 439]*** laid down following parameters:

> i) economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country, and
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> ii) while granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interest of the public/State and other similar considerations.

14. The Honourable Apex Court, in the case of ***State of Gujarat vs. Mohan Lal Jitamalji Porwal [(1987)2 SCC 364]*** held as follows:

> *"5. ….The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest….."*

15. Learned Counsel for the applicant placed reliance on various judgments. Said judgments can be differentiated on the facts.

16. The Hon'ble Apex Court in the case of ***Satender Kumar Antil Vs. Central Bureau of Investigation, [(2022) 10 SCC 51]*** had considered the aspect of the economic offence and held that the gravity of the offence, the object of the Special Act, and the attending circumstances are a few of the factors to be taken note of, along with the period of sentence. After all, an economic offence cannot be classified as such, as it may involve various activities and may differ from one case to another.

Therefore, it is not advisable on the part of the court to categorise all the offences into one group and deny bail on the basis.

17. Considering the role of the present applicant in the crime and the enormous amount involved, the fact that 98 persons were duped by taking advantage of their unemployment, and the hard-earned money of the witnesses is at stake, the role of the present applicant is clearly exposed.

18. In the background of the accusation and its gravity, the applicant is not entitled for being released on bail, and therefore, the application deserves to be rejected and the same is accordingly **rejected**.

19. The observations made above are *prima facie* in nature, on the basis of material collected during the course of the investigation, and shall not be taken as findings recorded relating to the alleged offence.

20. Learned Counsel for the applicant prays for liberty to file an application after six months if there is no substantial progress in the trial.

21. Leave is granted as prayed for.

(URMILA JOSHI-PHALKE, J.)

**Divya*