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

CRIMINAL APPLICATION (ABA) NO.839/2022
Pramod s/o Natthuji Manmode
..vs..
The State of Mah., thr.PSO PS Juni Kamptee, Nagpur, District Nagpur

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

Shri Adwait Manohar, Counsel for the Applicant.
Shri K.P.Mahalle, Counsel assisting the prosecution.
Shri M.J.Khan, Additional Public Prosecutor for the State.

CORAM : URMILA JOSHI-PHALKE, J.
CLOSED ON : 03/08/2023
PRONOUNCED ON : 31/08/2023

1. By this application, being moved under Section 438 of the Code of Criminal Procedure, the applicant seeks anticipatory bail in connection with Crime No.294/2022 registered with the non-applicant police station for offences punishable under Sections 120-B, 406, 420, 409, 467, 468, and 471 of the Indian Penal Code.

2. One Karuna Yuvraj Wasnik, lodged a report with the police station on 25.9.2022. As per the said report, she was working in a Wine Shop and she came in contact with the applicant and and one Wamanrao Bhalwatkar working in Nirmal Urban Cooperative Bank, Kamptee. According to the informant, the said two persons allured her to invest amounts in fixed deposits in the said bank and, therefore, she deposited Rs.5.00

lacs in the name of her father. She also invested Rs.3,50,000/- in a fixed deposit in her name. However, original fixed deposits' certificates were not issued to her. She further noticed that two cheques were missing from cheque book issued to her father. On enquiry with the co-accused, she learnt that the said missing cheques are retained by the co-accused for official purpose. She further alleged that in the month of August 2018, she came to know that there is misappropriation of amounts in the said bank by co-accused Sachin Bomble and, therefore, she visited the said bank and found that amounts invested by her in fixed deposits were withdrawn. Moreover, loan was obtained in her name by co-accused Sachin Bomble. She disclosed the said fact to the applicant. However, the applicant, who is the Chairman of the said bank, has not taken any steps to repay amounts to her. She learnt that the applicant was in need of money for the purpose of election expenses and, thereafter, amounts deposited with the said bank by investors are misappropriated by the co-accused by joining hands with the applicant. On the basis of the said report, the police registered the offence.

3. Heard learned counsel Shri Adwait Manohar for the applicant; learned counsel Shri K.P.Mahalle assisting the prosecution, and learned Additional Public Prosecutor Shri M.J.Khan for the State.

4. Learned counsel for the applicant submitted that the First Information Report nowhere shows that it was the applicant who allured the informant to invest amounts. On the contrary, the First Information Report shows that when the applicant was approached by the informant, he called co-accused Sachin Bomble and said Sachin Bomble in the presence of the applicant assured that he will return amounts. There is no allegation that the applicant has withdrawn said amounts as he was in need of financial assistance for election purpose. Learned counsel contended that the applicant is not the Chairman of the said bank. However, the Chairman of the said bank is his wife. So, the applicant has no concern with the said bank.

He submitted that the entire allegations are against co-accused Sachin Bomble. The allegation as to withdrawal of amounts is also against co-accused Sachin Bomble.

Insofar as the applicant is concerned, only allegation against him is that the informant approached him and narrated about the misappropriation of amounts. However, he has shown his inability to act against the co-accused. As far as the allegation against him is concerned, that he was in need of financial assistance for election, is on the basis of information given by the co-accused. There is no material to show that he was contesting any election at the relevant time. Thus, there is no *prima facie* material against him. Learned counsel prays that considering the allegations against the applicant, his custodial interrogation is not required and, therefore, he be released on bail in the event of his arrest.

5. Learned Additional Public Prosecutor for the State strongly objected the application. He submitted that the applicant, being the Chairman of the said bank, was under obligation to lodge a report and protect depositors of the said bank. He submitted that there are criminal antecedents against the applicant as Crime No.327/2022 is registered against him under Sections 420, 409, 109, and 120-B of the Indian Penal Code. Similar types of offences are registered against him. He submitted that custodial interrogation of the applicant is required. It is his submissions that considering the nature of allegations levelled against the applicant, as there is a *prima facie* material against the applicant, the application deserves to be rejected.

6. Learned counsel assisting the prosecution also objected the application on the ground that allegations in the First Information Report are regarding financial misappropriation

by the applicant with the co-accused. He submitted that the economic offence is committed by the applicant. He submitted that the Honourable Apex Court in the case of **P.Chidambaram vs. Directorate of Enforcement, reported in 2019(9) SCC 24** has observed that economic offences stand as a different class as they affect the economic fabric of the society. The privilege of the pre-arrest bail should be granted only in exceptional cases. He submitted that considering the involvement of the applicant in an economic offence and there are criminal antecedents against him, extra ordinary power in granting anticipatory to be exercised sparingly. As such, he prays that the application needs rejection.

7. Having heard both the sides and perused the First Information Report, it reveals that the informant came into contact with bank employees Shlesh Kochankar and Manager Sachin Bomble. They allured her to invest amounts and accordingly she invested amounts. It was co-accused Sachin Bomble who prepared relevant documents to invest amounts in fixed deposits. There is no allegation that at the time of investing amounts, the applicant insisted the informant to deposit amounts. As far as the allegation, regarding the withdrawal of amounts, is concerned, it is against co-accused Sachin Bomble. Said Sachin Bomble obtained loan on FDR

which was in the name of the father of the informant. As far as allegations in the First Information Report against the applicant are concerned, it is only to the extent that after the informant learnt about the misappropriation by the co-accused, she approached the applicant and requested him to intervene in the matter. However, he shown his inability and, therefore, he is implicated. There is absolutely no allegation that it was the applicant who has withdrawn the amount or on his instructions the co-accused withdrew the said amounts.

8. Insofar as the submission of learned Additional Public Prosecutor for the State is concerned, that there are criminal antecedents against the applicant as Crime No.327/2022 is also registered against the applicant on an allegation that he misappropriated amounts being founder Chairman and Chief Promoter of the said bank, in the said crime the applicant is released on bail by this court by observing that there is no allegation of forgery against the applicant. It further observed that *prima facie* analysis of the material clearly indicates that the informant and his friends are beneficiaries of transactions. Even if it is assumed that the proposals of these loan transactions were initiated by the applicant, it could not be said to be criminal offence and he was released on bail.

9. In the present case, there is no allegation showing direct involvement of the applicant in the crime either in alluring the informant to invest amounts or in the misappropriation of amounts.

10. Learned counsel assisting the prosecution vehemently submitted that the offence committed by the applicant is economic offence and, therefore, in view of the judgment of the Honourable Apex Court in the case of **P.Chidambaram vs. Directorate of Enforcement** cited *supra,* power under Section 438 of the Code of Criminal Procedure, being an extra ordinary power, has to be exercised sparingly.

11. The above said aspect in the case cited *supra* was again considered by the Honourable Apex Court in the case of **Satender Kumar Antil vs. Central Bureau of Investigation and anr, reported in (2022)10 SCC 51** wherein it is held that the question for consideration is whether it should be treated as a class of its own or otherwise. and referred the judgment in the case of **P.Chidambaram vs. Directorate of Enforcement reported in (2020)13 SCC 791** and held that 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.

12. Here, in the present case, considering the allegations against the applicant, which nowhere show his direct involvement, his custodial interrogation is not required. Moreover, the investigation appears to be completed by the investigating agency and relevant documents are already seized. It is well settled that while considering the Anticipatory Bail Applications mere custodial interrogation is not required is not only the criterion but also gravity of the offence and other considerations are to be taken into consideration. Though it is alleged that the applicant was the Chairman of the said bank, documents collected during the investigation show that it was the wife of the applicant who was the Chairman of the said bank. The applicant was not the Director of the said bank also. It is pertinent to note that there is absolutely no allegation against the applicant that he has either induced the informant

to invest amounts or withdrew amounts. The entire allegations are against the co-accused.

13. In the light of the above, the application deserves to be allowed. Accordingly, I pass following order:

<u>ORDER</u>

(1) The criminal application is **allowed**.

(2) In the event of arrest of applicant - Pramod s/o Natthuji Manmode, in connection with Crime No.294/2022 registered with the non-applicant police station for offences punishable under Sections 120-B, 406, 420, 409, 467, 468, and 471 of the Indian Penal Code, he be released on bail on he executing a P.R.Bond in the sum of Rs.25,000/- with one solvent surety of the like amount.

(3) The applicant shall attend the police station twice a week i.e. Monday and Friday from 11:00 am to 2:00, till filing of chargesheet.

(4) The applicant shall also attend the police station as and when his presence is required by the Investigating Officer for interrogation into the crime.

(5) The applicant shall not directly or indirectly make any

inducement and threat or promise to any person acquainted with the facts of the present case.

(6) Needless to mention that the observations made in this order are purely *prima facie* for deciding the present application for grant of anticipatory bail only and learned Judge before whom the trial will be conducted shall not get influenced by the said observations.

The criminal application stands **disposed of**.

(**URMILA JOSHI-PHALKE, J.**)

!! BrWankhede !!