



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 BAIL APPLICATION NO. 1072 OF 2024

NARAYAN ARJUN NAGARGOJE

VERSUS

THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Bedre Vinayak Sudhakar.

APP for Respondent-State : Mr. S. B. Narwade.

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CORAM : S. G. MEHARE, J.

DATE : 24.07.2024

PER COURT :-

1. Heard the learned counsel for the applicant and learned APP for the respondent-State.
2. The applicant seeks bail in Crime No.50 of 2023, registered with Bamani Police Station, District Parbhani, for the offences punishable under Sections 406, 408, 409, 418, 420 read with Section 34 of the IPC and Sections 3 and 4 of the M.P.I.D. Act.
3. It has been alleged against the applicant that he was the Chairman of the so called finance institution, which was formed fraudulently. The said institution was also not registered. The applicant used to collect the money in cash from the branches and thereby played a fraud with the

investors. Many investors are brought forward making the allegations of cheating and violation of the provisions of the M.P.I.D. Act. The applicant is languishing in jail for more than nine (9) months. The investigation has been completed and charge sheet is filed.

4. Learned counsel for the applicant would submit that the investigation has been completed. Nothing is to be recovered from him. He has the roots at Jawharwadi, Taluka Georai, District Beed. There are no chances of his absconding. The list of witnesses is large. The trial may take its time. Therefore, the prosecution could not ensure the speedy trial as provided under Article 21 of the Constitution of India.

5. Learned APP has strongly opposed the application. He would submit that the applicant is the main accused. Still the investigation of the property is going on. New depositors coming forward. Therefore, the amount of fraud is increasing. However, he could not make a statement that how much time the trial would take.

6. The purpose of detention during the investigation is that accused should not interfere with the investigation. He should not disappear the evidence. He should not tamper with the prosecution witnesses. In the case at hand, the investigation

has been completed and sizable charge sheet has been filed quoting large number of witnesses. The prosecution is not able to ensure the speedy trial. In case of *Javed Gulam Nabi Shaikh Vs. State of Maharashtra and others ; MANU/SC/0609/2024, dated 03.07.2024*, the Hon'ble Supreme Court has observed that the speedy trial is the fundamental right of the accused under Article 21 of the Constitution of India. The question which would, however, arise is as to what would be the consequence if a person accused of an offence is denied speedy trial and is sought to be deprived of his liberty by imprisonment as a result of a long delayed trial in violation of his fundamental right under Article 21. The purport of the law laid down in this case was that if the State or any prosecuting agency including the Court should have no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial and enshrined under Article 21 of the Constitution if not the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed serious. Article 21 of the Constitution applies irrespective of the nature of the crime. The petitioner is still an accused not a convict. It has been further observed that over-arching postulate of criminal jurisprudence that an accused is presumed to be an innocent until proven guilty cannot be

brushed aside lightly, howsoever stringent the penal law may be. In this case neither the State nor the prosecution agency is able to ensure the speedy trial. The large number of documents and witnesses is another material before the Court to believe that there is least chances of speedy disposal. That apart, nothing is to be recovered and discovered from the applicant. Therefore, he deserves bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **NARAYAN ARJUN NAGARGOJE** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount, on the following conditions :
 - (a) He shall not leave the place of his residence without the leave of the Court till the trial is concluded.
 - (b) He should furnish his passport with the Court, if any.
 - (c) He shall not transfer any of the immovable property secretly during the course of the trial. If he want to transfer the immovable property or the valuable property like gold,

silver, diamond and bonds etc., he should intimate the Court first and seek the leave from the Trial Court.

- (d) He shall attend the trial on every date.

(S. G. MEHARE, J.)

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vmk/-