2024:BHC-AUG:25731

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

931 BAIL APPLICATION NO. 1586 OF 2024

VAIJINATH ANNA DAKE
VERSUS
THE STATE OF MAHARASHTRA
...
Advocate for Applicant : Mr. S.S. Thombre h/f Mr.Suryawanshi Kamlakar J.
APP for Respondent/State : Mr.S.P. Sonpawale
...

WITH
CRIMINAL APPLICATION NO. 4026 OF 2024
IN BA/1586/2024

CHAMELI W/O ASHOK VERMA
VERSUS
VAIJINATH ANNA DAKE AND ANOTHER
...
Advocate for Applicant : Mr. Bharad Mayur Dilip
APP for Respondent/State : Mr.S.P. Sonpawale

WITH
CRIMINAL APPLICATION NO. 4029 OF 2024
IN BA/1586/2024

RAVI RAJKUMAR ROHRA
VERSUS
VAIJINATH ANNA DAKE AND ANOTHER
...
Advocate for Applicant : Mr. Bharad Mayur Dilip
APP for Respondent/State : Mr.S.P. Sonpawale

WITH
CRIMINAL APPLICATION NO. 4030 OF 2024
IN BA/1586/2024

MUKESH SHRICHAND PANJWANI AND OTHERS
VERSUS
VAIJINATH ANNA DAKE AND ANOTHER
...
Advocate for Applicant : Mr. Jarare Prasad Devidas
APP for Respondent/State : Mr.S.P. Sonpawale

WITH
CRIMINAL APPLICATION NO. 4031 OF 2024
IN BA/1586/2024

DEEPAK RADHAKISAN CHANDAK AND ANOTHER
VERSUS
VAIJINATH ANNA DAKE AND ANOTHER
...
Advocate for Applicant : Mr. Jarare Prasad Devidas
APP for Respondent/State : Mr.S.P. Sonpawale
...

CORAM : S. G. MEHARE, J.

DATE : 18th October, 2024.

P.C.:

1. Heard the learned counsel for the applicant, the learned APP for the respondent-State and the learned counsel for the depositors.

2. The applicant seeks bail in Crime No.230 of 2024 registered with Paithan Police Station, for the offences punishable under sections 420, 409 read with 34 of the Indian Penal Code and sections 3 and 4 of the M.P.I.D. Act.

3. The prosecution case, in nutshell, was that the Multi-State Co-operative Credit Society did not return the money to the depositors when they demanded. The applicant was a Manager. It has been alleged against him that the applicant convinced the depositors that they would get more benefits than general market if the amount is deposited with their society. The applicant had issued tokens to repay the money to depositors, but, thereafter, all the persons concerned fled away.

4. The applicant has a case that for the period for which the alleged fraud was played, he was not Manager. He was posted as Manager in 2021 at Paithan branch. He has no role to play. Since last about five months, he is behind bar. Although, investigation has been done from him. He is not a beneficiary of the alleged fraud. He was not responsible for disbursing the loan to the business firms of the Chairman of the Credit Society. He being a Manager is to respect the depositors and float the schemes of the bank. Therefore, it cannot be said that he had convinced the depositors with his credit society intending to cheat them. He was just a Manager. The Board of Directors took the policy decisions. There are no allegations against him that the documents produced for securing the loan were forged or false. Nothing has been recovered from the applicant. After sending him to M.C.R. no investigation has been done nor he was interrogated any time.

5. The learned counsel for the depositors has strongly opposed the application. He would submit that it is an economic offence. The conduct of the applicant itself is sufficient to believe at this juncture that he was in collusion with the Chairman and Directors of the Credit Society. He was knowing the financial condition of the credit society, even then, he falsely was promising the depositors that they would get more benefits. There was a specific design and pattern of convincing the people to deposit money with the credit society. He was constantly

giving false promises to the depositors. Depositors are poor persons. Investigation is still going on. The Chairman was recently produced before the Court and he has made a statement that this applicant is only responsible for the present offence. He relied on the cases of ***Mangesh Vs. State, through PSO, PS Lakadganj, Nagpur (2020 SCC Online Bom. 1905), Manik Madhukar Sarve and others Vs. Vitthal Damuji Meher and others (2024 SCC Online SC 2271 and State of Bihar and another Vs. Amit Kumar alias Bachcha Rai {(2017) 13 SCC 751}***.

6. All these case laws speak about the socio-economic offence. While granting bail, stringent parameters should have been applied. While bail and not jail is the rule, economic offences fall within the exceptions. It was observed in the case of ***Mangesh (supra),*** that economic offences constitute a class apart warranting, nay necessitating, a different approach. The liberty of the accused and the presumption of innocence must undoubtedly weigh in the exercise of discretion. However, the right of the State to arrest, investigate and detain economic offenders and the interests of the civil society must balancing. An unidimentional approach restricted to the perspective of the accused would cause an immense disservice to the justice dispensation system. It is trite that economic offences affect the economy of the nation. Economic offences are committed with cool and cold blooded design, involve deep rooted conspiracy, and the

intent is to satisfy personal greed regardless of the consequences and harm to societal interest.

7. In case of ***Manik Madhukar Sarve (supra)*** the applicant was Chairman of the Co-operative Credit Society. It was alleged against him that he in connivance with co-accused he had misappropriated the huge amount. Respondent no.1 was the co-conspirator and a close friend of mastermind Khemchand Meharkure. In the nutshell, it was a case that it was a systematic conspiracy done by the President of the Urban Credit Co-operative Society in connivance with a third person, who was close to him. There was evidence that the Chairman was benefited.

8. In case of ***Amit Kumar (supra),*** the respondent was Principal of the college. It was a case of “Bihar Toppers Scam” charged with economic offences of huge magnitude. High Court had granted bail on the ground that the accused was in custody for long time. In turn, the Hon’ble Supreme Court held that when seriousness of offence was of such magnitude, mere fact that accused was in jail for long time, is inconsequential. Besides, such casual approach would undermine trust of public in integrity of education system. It has been held that in social economic offences constitute a class apart and need to be visited with different approach in matter of bail since socio-economic offences have deep-rooted conspiracies affecting moral fibre of society and causing irreparable harm.

9. The overall view about the economic offences was that in such offences, the Court should not take liberal view. However, there was no absolute bar for granting bail to the accused considering the role attributed to him. Each case has its facts and circumstances. On that basis, whether further detention of accused is essential should be weighed. Normally in the economic offences, what benefit was received to the accused may be a fact to be considered.

10. So far as this case is concerned, the applicant was the Manager, who joined Paithan branch in 2021 and allegations were of before his joining. Merely entertaining the depositors and disseminating the schemes of the Credit Society could not be said to be alluring the depositors of good benefits. It was not the incident of single day. The investigation papers placed before the Court does not reveal that the applicant has received benefit of single penni from the alleged fraud. On the contrary, the material shows that the loans were granted to the business firms of the Chairman. The prosecution has no case at this juncture that the documents produced for security or loan were also forged and false. Considering the role attributed to the applicant and no recovery of anything from him, at least, prima facie shows that he was not the beneficiary of the fraud. In the circumstances, it would be unjustifiable to keep him behind bar. Hence, the following order:

O R D E R

(i) Bail Application is allowed.

(ii) Applicant **VAIJINATH ANNA DAKE** 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, in the above crime for the aforesaid offences, on the following conditions :

(a) The applicant should attend the concerned police station as and when required by the Investigating Officer on written notice till filing of the chargesheet.

(b) He should not contact other co-accused till the trial is concluded.

(c) He should not leave the place of his residence without the leave of the Court till the trial is concluded.

(d) He should furnish his residential proof and cell phone number to the Police with an undertaking that he would not change it till the trial is concluded.

(iii) Criminal Application Nos.4026/2024, 4029/2024, 4030/2024 and 4031/2024 stand disposed of.

(S.G. MEHARE, J.)

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