

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 85 OF 2023

Sarang Wadhawan	...Applicant
vs.	
The State of Maharashtra	...Respondents

**ALONGWITH
BAIL APPLICATION NO. 361 OF 2023
ALONGWITH
INTERIM APPLICATION NO. 3414 OF 2023
IN
BAIL APPLICATION NO. 361 OF 2023**

Rakesh Kumar Wadhawan	...Applicant
vs.	
The State of Maharashtra	...Respondents

**ALONGWITH
INTERIM APPLICATION NO. 3791 OF 2023
IN
BAIL APPLICATION NO. 361 OF 2023**

Iram Sayed	...Applicant
vs.	
The State of Maharashtra	...Respondents

Senior Advocate Mr. Abad Ponda a/w Mr. Subhash Jadhav a/w Mr. Chandansingh Shekhawat a/w Mr. Yashovardhan Deshmukh i/by Parinam Law Assoc.	Advocates for the Applicant in BA 85 of 2023
Mr. Harshad Nimbalkar a/w Mr.	Advocates for Applicant in BA 361 of

Hrishikesh Chitaley a/w Mr. Ashish Verma, a/w Mr. Sagar Shetty, Mr. Satyam Nimbalkar, a/w Mr. Abhishek Arote a/w Ms. Sonia Redkar a/w Ms. Shraddha Nagaonkar a/w Mr. Akshay Naik a/w Mr. R. Chhabra i/by Mr. Sagar Shetty	2023, IA 3414 of 2023
Mr. S. V. Gavand	APP for the Respondent-State
Mr. Deepak Dalvi, Sr. PI a/w Mr. Suresh Padvi,	PI, EOW, Mumbai

CORAM : S. M. MODAK, J.

RESERVED ON : 07th and 27th
FEBRUARY 2024/
21st MARCH 2024PRONOUNCED ON : 05th APRIL 2024P. C. :-

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1. Even though both these Applicants have not taken absence of materials (that is merit) as a ground of bail, extensive arguments were advanced by learned Senior Advocate Mr. Ponda for the Applicant-Sarang and learned Advocate Mr. Nimbalkar assisted by learned Advocate Mr. Chitale for the Applicant-Rakesh. As a result, Mr. Gavand, learned APP also argued extensively by pointing out the allegations against both these Applicants from the summary annexed to the charge-sheet and from the report given by Reserve Bank of India.

2. Predominantly, bail is asked for on following grounds:-

- (a) Long incarceration in jail, when no progress made towards starting of the trial.
- (b) Health ground taken by Applicant-Rakesh
- (c) Wrong invocation of Sections 409, 467 of the Indian Penal Code

(d) Ground of parity because co-accused Waryam Singh was granted bail by Co-ordinate Bench in Bail Application No 2362 of 2023 as per the order dated 01/02/2024.

3. The Criminal law was set in motion on 30/09/2019 when one Jasbir Singh Matta Manager (Recovery Cell of Punjab and Maharashtra Co-operative Bank, Bhandup) has filed a complaint with Joint Commissioner of Police EOW, Mumbai. The offence was registered against one Joy Thomas, Managing Director of the said bank, Waryam Singh and other official of the bank and against the Applicant-Rakesh and his son-Sarang and other executives of HDIL Company. The said Bank is registered as Co-operative Society and they were licensed to carry out the banking business by the Reserve Bank of India in the year 1984. It becomes Scheduled bank in the year 2000 and multi-State Co-operative Bank in the year 2004. Board of the Directors connived with board of Directors of the HDIL and sanctioned loan other advances and facilities to the tune of crores of rupees. Not only the rules of procedures were flouted but even statistical information was concealed from the Reserve Bank of India. In fact the business of the bank was in loss, however rosy picture on the basis of the fictitious

figures was portrayed.

4. Inspection team of the Reserve Bank of India revealed all these malpractices. The said team was not having any option but to bring all these malpractices on record and they gave interim report on 20/12/2019 summarizing all earlier reports. That is why the Manager-first informant lodged the complaint with the Police and an offence under Sections 406, 409, 420, 465, 467, 471 read with 120-B of the Indian Penal Code was registered against all of them.

5. Considering the gravity, the offence was transferred to Economic Offence Wing. With all their efforts, EOW charge-sheeted five persons as an accused. Two of them are present Applicants and accused no. 3 Joy Thomas was Managing Director of the PMC Bank, accused No. 4-Waryam Singh was Chairman of the Bank and accused No. 5-Surjit Singh was on the Board of Director of the Bank. The magnitude of the offence was so serious and having serious implication, EOW filed charge-sheet within three months period. Charge-sheet consists of voluminous documents including statements, panchnamas, correspondence and other documents.

6. The Present two Applicants i.e. Rakesh and Sarang came to be

arrested on 03/10/2019. Out of them Applicant-Sarang is son of the Applicant-Rakesh. It is true that Applicant-Rakesh was initially granted interim bail by the Hon'ble Supreme Court on account of various ailments. There is also one Interim Application No. 3791 of 2023 filed by the intervenor-Iram Sayed thereby opposing his hospitalization and even he has filed Criminal Public Interest Litigation No. 7 of 2021 questioning the decisions of the hospital authorities to admit him. That PIL is still pending. I will deal with grounds for bail taken by the Applicants separately.

GROUND NO. 1 - ILL HEALTH – BY APPLICANT - RAKESH

7. Though long incarceration is main ground for seeking the bail, learned Advocate Mr. Nimbalkar emphasized that additionally he will be also seeking bail for Applicant-Rakesh on medical ground. No doubt, it is true that at present also he is on interim medical bail as per Order of the Hon'ble Supreme Court dated 09/11/2023. It was extended by this Court for limited duration. However later on Applicant decided not to press for continuation. Even though it is pressed as ground for bail, I am not considering it as earlier continuation was not pressed, that is why I am not going into the

details of the ailments, and treatment taken so far. Only, I will narrate the preliminary facts required to be mentioned.

Earlier prayers

8. This Court has refused to grant him medical bail as per Order dated 26/10/2023 passed in Bail Application No. 361 of 2023 (Coram :- Bharati Dangare, J.) instead, this Court has issued several directions to the administration of J.J. Group of the hospitals.

9. The Applicant-Rakesh has chosen to approach the Hon'ble Supreme Court and prayed for his release on interim medical bail. This was allowed as per Order dated 09/11/2023. The Applicant was confined in his private residence at Bandra alongwith Police escort. This relief was granted for three months.

10. The period of the interim bail is extended by this Court as per Order passed on 08/02/2023 for three weeks. It is also true that Applicant-Rakesh is also arrested in case instituted by Department Enforcement Directorate and in fact Applicant-Rakesh was on interim medical bail in that case. However the Special Court has not extended the period of the interim bail and that is why Applicant-Rakesh surrendered to the jail authorities. Under these circumstances, the

Applicant-Rakesh has chosen not to press for continuation of the interim medical bail from this Court in EOW matter and it is recorded in the Order dated 27/02/2024.

11. Now ultimately, it is choice of the Applicant-Rakesh to press for continuation of the interim bail or not. However once he has decided not to press for continuation (for whatever reason), now why this Court should devote its time to go through the papers and given its findings. Because, merely stating that medical ground is taken is one thing and pointing out the necessary documents showing the current health status is another thing. The latest medical papers were not filed, so this Court deems it proper not to go into that issue.

**SECOND GROUND - WRONG INVOCATION OF THE
SECTION (COMMON)**

12. It is true that Police have filed charge-sheet for the offences under Section 409, 420, 406, 467, 468, 471, 471 A, 201 read with 120-B of the Indian Penal Code. Learned Senior Advocate Shri Ponda made following submissions:-

- a) He invited my attention to the relevant pages from the summary of the charge-sheet thereby describing the role of the every

charge-sheeted accused including his client-Sarang. He submitted that in that summary there are allegations how forgery caused of offsite surveillance statement (OSS) was committed. These statements are required to be submitted to the RBI showing financial position of the bank. There are such nine statements. Even though those details are there, it no where refers to his client Applicant-Sarang.

- b) He read over the Sections relevant to forgery from the Indian Penal Code. According to him the false statements can be made in three ways and the allegations made in the charge-sheet does not fall under any of these three categories.
- c) He also emphasized about wrong invocation of the Section 409 of the Indian Penal Code. Section 409 is aggravated form of Section 406 of the Indian Penal Code. If criminal breach of the trust is committed either by public servant or by banker, merchant or agent that will fall under Section 409 of the Indian Penal Code. But he clarified that there is no entrustment of the money to his client and his client does not fall within the category under Section 409 of the Indian Penal Code. Hence that

Section is wrongly invoked.

13. To buttress his submission, he relied upon the following judgments:-

- a) Mohammed Ibrahim and Ors. Vs. State of Bihar¹
- b) Motisinh Gambhirsingh Vs. The State²
- c) Niranjan Lakhmal Hiranandani Vs. Central Bureau of Investigation³

14. As against this learned APP Mr. Gavand made the following submissions:-

- a) Section 120-B is also invoked and that is separate offence and in pursuance to the conspiracy, if any other offence is committed, every conspirator will be responsible.

He also relied upon following judgment:-

- (i) Mir Nagvi Askari Vs. CBI⁴

15. According to learned APP Mr. Gavand, the Bank officials by giving go by to rules have sanctioned various loans to HDIL and other entities. and the Company has not refunded that amount and it is in crores. So as such there is loss to bank revenue and this is nothing but

1 2009 (8) SCC 751

2 AIR 1961 Guj 117

3 2018 SCC Online Bom 1116

4 2010 AIR SC 528

loss of the investors money. Hence Section 409 is rightly invoked.

16. To buttress his submission, he relied upon the observations in case of *Shivnarayan Laxminarayan Joshi Vs. State of Maharashtra*⁵. The director of the Company was considered not only as an agent but he is trustee of assets of the Company.

Conclusion

17. Whether Police have rightly invoked Section 409 and forgeries Sections can be decided after going through the documents submitted alongwith charge-sheet. It is also true that this Court is only deciding the prayer for bail and not prayer for discharge. So if at all the scrutiny of the papers is to be undertaken, it is only for the purpose of deciding the claim for bail.

18. With their assistance, I have gone through the charge-sheet papers. It consist of the statement of the witnesses. They have worked in the Bank in different capacity. There are statements of witnesses working in the Reserve Bank of India. There are statements of witnesses relating to the property transaction undertaken by the Applicants. There are documentary evidence collected relating to the

5 1980 AIR Supreme Court 439

sanction of the loan and other facilities etc. For deciding the issue whether EOW has rightly invoked these Sections, these papers are required to be looked into.

19. Now this Court is faced with piquant situation that is to say whether see the materials for deciding the issue about right invocation of the Sections on one hand and not to go through the materials particularly when the bail is not asked on merits on the other hand. Time and again, learned Senior Advocate Mr. Ponda and learned Advocate Mr. Nimbalkar have reiterated that they have not asking for bail on merits. If it is so then how they can insist upon the Court to go through the materials for the purpose of the deciding Sections rightly invoked or not and that too at bail stage.

20. I do not think that such exercise can be undertaken for this reason that this Court cannot make any observations about improper invocation of the Sections 409, 467 of the Indian Penal Code. This contention is rejected. That is how I have not undertaken the exercise of going through the observations in the judgment cited by both the sides.

THIRD GROUND - LONG INCARCERATION

21. There is much emphasis on this ground for getting bail. This ground is taken by both these Applicants. According to learned Senior Advocate Shri Ponda and learned Advocate Shri Nimbalkar, considering the nature of the allegations, seriousness, voluminous documents and number of witnesses to be examined, it is uncertain when the trial will start and will be concluded. According to them, the right to speedy trial is facet of the personal liberty and if accused is detained behind the bar for long time without assurance about conduct of the trial, their fundamental right is breached and there is no fault on their part.

22. To buttress their submissions, learned Senior Advocate Shri Ponda relied upon the following judgments:-

Mohd Muslim @ Hussain Vs. State (NCT of Delhi),	SLP (Crl.) No. 915 of 2023
Union of India Vs. K.A. Najeeb,	(2021) 3 SCC 713
Satender Kumar Antil Vs. Central Bureau of Investigation & Anr.	(2022) 10 SCC 51
Sanjay Chandra Vs. Central Bureau of Investigation,	(2012) 1 SCC 40
Shaheen Welfare Association Vs. Union of India & Ors,	(1996) 2 SCC 616

Dipak Subhashchandra Mehta Vs. Central Bureau of Investigation,	(2011) 14 SCC 737
Kewal Suresh Gaikar Vs. State of Maharashtra,	Criminal Bail Application No. 3117 of 2022
Rehman @ Jafar Rajmohammad Shaikh Vs. State of Maharashtra,	Criminal Bail Application No. 2306 of 2022
Sujit Tiwari Vs. State of Gujarat & Anr,	(2020) 13 SCC 447
Naib Singh Vs. State of Haryana,	CRM-M-29466-2022
Mohammad Salman Hanif Shaikh Vs. State of Gujarat,	SLP (Crl.) No. 5530 of 2022
Gopal Krishna Patra @ Gopalrusma Vs. Union of India,	SLP (Crl.) No. 4789 of 2022
Nitish Adhikary @ Bapan Vs. State of West Bengal,	SLP (Crl.) No. 5769 of 2022
Jainam Rathod Vs. State of Haryana & Anr,	2022 SCC OnLine SC 1506
Sujay U. Desai Vs. Serious Fraud Investigation Office,	2022 SCC OnLine SC 1507
Sheila Sebastian Vs. R. Jawaharaj & Anr,	(2018) 7 SCC 581

23. As against this learned APP Shri Gavand submitted that right to bail on this ground cannot be decided independently, but the seriousness of the allegation and severity of the punishment also needs to be considered.

24. According to him these Applicants in connivance with bank

officials have duped the bank for crores of rupees. This is loss of national ex-chequer and these Applicants have breached every rules and regulation and they do not deserve sympathy. No doubt there is right to speedy trial but it cannot be asked by such Applicants who are facing grave charges.

25. According to him, if Court will grant them bail, the ordinary citizen who have invested the money in the bank will loose the hope in the justice delivery system. Alternatively, he submitted that let the directions be issued for expediting the trial. He assured of all co-operation in early conduct of the trial.

26. It is no doubt true that the right to the speedy trial is recognized as facet of the personal liberty and as such is fundamental right. Ultimately, the job of the Court is to balance the right of rival parties that is to say right of the prosecution to prove the guilt of the accused by producing legally admissible evidence and even right to pray for detention, till conclusion of the trial. At the same time, there is corresponding right in favour of the accused to expect early disposal of the cases, if his liberty is taken away. This is nothing but an extension of the principle of presumption of innocence till the time, guilt is

proved.

27. Now if the allegations are of serious nature with severe punishment, whether right to bail on account of delay in trial is taken away is the question?

28. In the judgments cited by learned Senior Advocate Mr. Ponda, in few of the judgments the Hon'ble Supreme Court has dealt with the issue of the bail in a such situation involving offences particularly under two categories of the law.

(a) The offence under the Special Act, for e.g. Narcotic Drugs and Psychotropic Substances Act, Unlawful Activities Act etc., wherein there are strict conditions for grant of bail on one hand and

b) on the other hand, the right to bail involving offence other than the Special Act.

29. In case of Mohd Muslim @ Hussain (supra), such issue has arisen in case involving offence under NDPS Act, the Hon'ble Supreme Court gave priority to right of the individual over stringent condition for grant of bail. The Supreme Court has balanced in between both the competing rights and the considered the

overcrowding in jail, possibility of the under trial prisoner coming in the company of the harden criminals and consequences.

30. Whereas in case of *Union of India Vs. K.A. Najeeb (supra)*, the provisions of the Special Law under Section 43 (D) 5 of the Unlawful Activities (Prevention) Act were involved. The Hon'ble Supreme Court has recognized the right of the constitutional courts to grant bail, if there is a delay in trial irrespective of the special provisions.

31. Whereas in case of *Satender Kumar Antil (supra)*, the Hon'ble Supreme Court threadbare has considered the provisions of the Sections 437, 438 and 439 as to bail and the provisions of pre- arrest protection under Section 41 and Section 41-A of the Criminal Procedure Code. Even there were general directions to dispose of bail application in time bound manner and the High Courts were asked to issue direction. Even certain time limit was fixed for disposal of the cases depending upon the trial by the Magistrate and by the Sessions Court. Again principle of the bail as rule and jail is an exception was reiterated.

32. Whereas in case of *Dipak Subhashchandra Mehta (supra)* similar issue was involved. However right to bail was postponed on the

assurance to complete the trial within the time limit and if not adhered, then right will again accrue.

33. Similarly in case of *Sujit Tiwari (supra)* and *Naib Singh (supra)* right to bail was recognized considering the number of witnesses, period of pre-trial detention. In both these cases, there were offences under the NDPS Act.

34. There are few other Orders where bail was granted but observations are factual observations. Similar was view taken in case of *Sanjay Chandra (supra)*.

35. There is vast difference in between the powers of the Court to grant bail by Courts other than Constitutional Courts and power of the Constitutional Courts to grant bail. It is no doubt true that it is not only Constitutional Courts are bestowed upon the responsibility to protect the fundamental rights but even other Courts are having same responsibility. Still the responsibility of the constitutional courts is more.

36. In nutshell, when the issue of liberty comes before the constitutional courts, this Court is not prevented from recognizing right to bail in spite of the stringent condition under the Special Law.

In case before us, offences are only under Indian Penal Code and provisions of any Special Act is not breached. The issue is only about magnitude of the offence.

Status of the present case

37. The offences involved are all of triable by the Court of the Judicial Magistrate or Metropolitan Magistrate. However the case is committed to the Court of the Additional Sessions Judge, Greater Mumbai as per Order passed on 20/07/2023. This Order was passed on an application moved by the Assistant Director, Director of the Enforcement. It was filed in purported exercise of the power under Section 44(1)(c) of the Prevention of Money Laundering Act.

38. There is no dispute about this power and its exercise by the Court of the Additional Chief Judicial Magistrate. The grievance of the Applicants is if the case is transferred and if the scrutiny of the papers by the Registry of the City Civil Court is taking much time, how the right to liberty can be restricted?

39. For verifying this fact, even I have heard investigating Officer from EOW, present on 07/02/2024. He has visited the City Civil Court and submitted that there are 85 volumes consists of the more

than 50,000 pages and scrutiny will take atleast 8 weeks. Till the time, I have closed the matters for orders, it was not pointed out to me on behalf of the EOW that scrutiny is over.

40. Now the case is assigned to Special Judge as per PMLA Act. It is for the reason that the offence in this case is scheduled offence. There is some controversy about priority of the trial amongst these two trials. That is to say whether trial of the scheduled offence will take first or whether trial of the PMLA offence will take first. This issue can be answered while dealing with the bail application involving an offence under the PMLA Act.

41. This Court is full conscious of the right to bail on one hand and right of the prosecution to adduce the evidence to prove the guilt on the other hand. No doubt it is true that there are serious allegations against these Applicants and there are materials collected during investigation including the statements of the bank officials of the bank. It is also true that officers of the Reserve Bank of India have independently inspected the record of the bank and they have given the forensic audit report through independent auditor vide the letter dated 20/12/2019. There were several reports earlier given. They have

encapsulated various irregularities under different heads involving the bank official and present Applicants. They have encapsulated the decision taken by board of directors of the bank favouring the Company controlled by these Applicants and their subsidiaries. So prima-facie there are lots of the materials collected by EOW.

42. Now the question is when the EOW can be asked to prove those materials thereby adducing the evidence? This is responsibility on the Court seized of the matter.

43. It is true that the PMLA Court in Mumbai is also having number of prosecution for PMLA offence and scheduled offence. So there will not be trial only for PMLA offence but trial for scheduled offence also needs to be conducted. One does not know when the Court can start with trial of this scheduled offence.

Statistics

44. With this view in mind, I have asked learned Registrar General of this Court to call the report from the trial Court on certain aspects that is in respect of the pendency (of PMLA and scheduled offence), the staff deputed for doing scrutiny of the papers of present case, time required for that scrutiny and when trial of these offences will start.

The learned Registrar General of this Court was pleased to call that information and place it before me in confidential envelope. I have perused it.

45. No doubt the statistic is available on the website of the City Civil Court as such it is not confidential but ultimately when Court calls it, and when get an authenticated information about the statistics, Court does not want that it should be used by any one for the purpose other than the issue involved in this case. That is why, I deem it proper not to place this statistics on record. But EOW/ED being the primary investigating unit/agency, they must be fully aware about the pendency for both the types of the cases before the Special Court. When I have perused those statistics, I have also felt that the future of trial of this case, will be in doldrums.

46. So under such situation can we detain the Applicants behind bar for a period which no one can definitely predict. EOW through learned APP and ED through their Advocates have not given any assurance to the Court about likelihood of completion of the trial in near future and how much time it will take for completion. Even no one is certain when scrutiny of the papers will be over, forget about framing of the

charge and conduct of the trial.

47. It is true that in entire administration of Criminal Law various stake holders are involved. The responsibility on investigating agency and on the Courts is onerous. Firstly, it is the duty of investigating agency to investigate properly and to collect materials and to submit it in the Court. The responsibility of the Court starts later on. It is true that there is time limit fixed for completion of investigation. Even if the charge-sheet/complaint is filed, still depending upon the magnitude of the offence, the trial continues. There are two sides. One is prosecution and another is defence. Court has to hear both of them. And it is bound to take time. The availability of Judges is also important. Disposal also depends on co-operation of defence. But paramount consideration is number of Court dealing with such cases. If it is less, trial is going to take time. It has happened in both these cases also. It is but natural that it will take long time for completion of the cases considering the procedure required to be followed. One cannot deny the fact that considering the statistics received by me, it is uncertain when the trial will start. Hence in such a situation we cannot deprive a person of his personal liberty.

48. Uptill now the scrutiny of papers is underway. So question is when the Judge will deal with the case? Unless and until, the papers are placed before a Judge, there would not be a progress. **Now can you blame the Applicants for the scenario?** This Court had no occasion to consider about happenings before the Court of Additional Chief Metropolitan Magistrate prior to commitment. No doubt it is responsibility of Court staff to scrutinize the papers and get the papers arranged in proper way. When I have asked learned Registrar General to call information, it is revealed that there is no sufficient manpower for scrutiny of papers. Even it is strange why this process was not accelerated? Thus manpower can be demanded. Even it seems that the EOW has also not taken further steps either to bring it to the notice of Principal Judge City Civil Court. Atleast it is not pointed out during hearing.

49. So in such a situation, how Applicants can be detained anymore?. What is happening all the stakeholders are fulfilling their responsibilities in a usual course as if they are dealing with an ordinary case. At this stage, we cannot have any expectation from defense. Ultimately more the delay, there is more scope for defense to encash.

This is so because, they have not asked for bail on merits.

50. So in given situation, **I have no alternative to grant bail.** At the same time, I think it proper to bring it to the notice of learned Registrar General.

51. Question is amount of bail. As said above, there is allegation of misappropriation of crores of rupees. Both the Applicants are the recipients of this amount. They are having good financial condition. Their presence at trial need to be secured. Hence I am inclined to determine amount of bail on higher side (other than usual case).

FOURTH GROUND - PARITY

52. It is true that co-accused-Waryam Singh is granted bail by Co-ordinate bench as per Order dated 01/02/2024. It is true that he was granted bail on the ground of illness, long incarceration. The allegations and materials against each of them need not be considered because bail is not asked for on merits. But it is true that on the point long incarceration bail was granted, it may be true that earlier bail application of accused Waryam Singh was rejected on merits but subsequently he got the bail. Be that it may, the Applicants are also entitled to ask for bail on the ground of long incarceration.

General Directions

53. At this juncture, I also deem it proper to give certain directions to learned Registrar General of this Court who is supposed to look into issues faced by the trial Court on administrative side in the State of Maharashtra.

54. **This Court expects learned Registrar General to take stock of the situation** particularly from the City Civil Court about total pendency, staff deputed in that process and number of judges assigned to scheduled offence alongwith PMLA offence. So if the City Civil Court administration is facing with some difficulties, learned Registrar General with all his experience and responsibility can try to solve the problems and he may also seek necessary directions from the Hon'ble Chief Justice. These observations are made only for mitigating problems faced by the prosecuting agency as well as by under trial prisoners. It may happen that due to intervention of learned Registrar General, the City Civil Court administration may be boosted to deal with huge pendency for scheduled and PMLA offence.

55. It is true that this order is going to be cited by any of the parties. That is why, I want to make two aspects clear. This Court has made

these observations on the basis of contentions raised and materials pointed out. They are not final observations. When issues will come before Courts, it is made clear that these observations are restricted to present issues and only made for deciding Bail Applications. Furthermore, it is made clear that even if this order is cited before any Court, the concerned Court is duty bound to deal with the issue of bail considering the nature of allegations and materials placed.

56. With these observations, I pass the following Order.

ORDER

- (i) Both Bail applications i.e. Bail Application No. 85 of 2023 and Bail Application No. 361 of 2023 are allowed.
- (ii) Applicant-Sarang and Applicant-Rakesh arrested in connection with C.R. No. 86 of 2019 registered with EOW Mumbai for the offence punishable under Sections 406, 409, 420, 465, 467, 468, 471, 477-A, 201 read with 120-B of the Indian Penal Code and in proceeding CC No. 882/PW/19 and now pending before Additional the City Civil Court, Mumbai, be released on bail on furnishing Personal Bond and Surety Bond of Rs. 5,00,000/- (Rs. Five Lakhs only) each.
- (iii) They are directed not to leave the State of Maharashtra unless any justifiable reason is there and that too with taking prior permission of the trial Court.
- (iv) They are directed not to threaten the prosecution witnesses and

allure them in any manner.

- (v) They are directed to attend the trial Court punctually.
- (vi) They are directed to surrender the passport to the EOW/ED, if they have not earlier surrendered.
- (vii) Learned Registrar General to interact with learned Principal Judge, City Civil Court about : pending matters involving under PMLA Act and scheduled offences (on the aspect of availability of staff and deputation of requisite number of Judges and connected issue).

57. Pending Interim application, if any, stands disposed of.

58. Bail applications are disposed of.

[S. M. MODAK, J.]

59. After pronouncement of the order, learned Senior Advocate Shri Ponda requested that for limited duration, cash bail be allowed. Because, it will take time for arranging the surety. It is opposed by learned Advocate Shri Venegavkar.

60. The prayer for cash bail cannot be allowed. There is a purpose behind insisting for surety bail and that too, heavy surety. Because, the presence has to be secured. Hence, it is rejected.

[S. M. MODAK, J.]