



Diksha Rane

1. BA 3363-22.doc

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

BAIL APPLICATION NO.3363/2022

ANITA SHANKAR KIRDAT

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Aniket Nikam h/f. Adv. Dhanashree M. Lad, Adv. Abdul Aziz Khan, Adv. Kusumlata Varma for the applicant.

Smt. Sangeeta D. Shinde, APP for the State.

Sr.P.I. Deepak Dalvi, EOW, Mumbai.

PI Suresh Padvi, EOW, Mumbai.

CORAM : M. S. KARNIK, J.

DATE : MARCH 20, 2024.

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Sections 201, 409, 406, 420, 465, 467, 468, 471, 477(A) read with 120-B of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 46(1), 47(A) of the Banking Regulation Act, 1949 registered on 30/9/2019 vide C.R. No.86/2019 with Economic Offences Wing, Banking-II, Mumbai (Bhandup Police Station, Mumbai, C.R.No.375/2019).

3. The application is opposed by learned APP. It is submitted that present is a case of serious economic offence involving crores of rupees. It is submitted that there is serious accusation against the applicant of having not verified the bonafide financial position of bank by following due diligence. The applicant has been functioning as auditor since the year 2005 till 2019 and closely associated with the then Managing Director accused Joy Thomas, Waryam Singh the Chairman and Rakesh Wadhwan/Sarang Wadhwan of HDIL Company. It is alleged that the applicant has not complied with the prevailing parameters of conducting concurrent Audit and the same is not trustworthy.

4. The applicant was arrested on 12/11/2019 and now is in custody for more than four years and four months. The applicant is a woman. The co-accused Waryam Singh Kartar Singh who is a prime accused, has been enlarged on bail by an order dated 1/2/2024 passed in Bail Application No.2362/2023. One of the factor considered while enlarging the co-accused Waryam Singh was his health condition. Apart from that the co-accused was enlarged on bail on the

ground of long incarceration and as the trial is unlikely to conclude soon. It is pointed out that the Statutory Auditors who are accused nos. 6 and 7 have been enlarged on bail by the trial Court. The observations in paragraphs 20 and 21 while releasing the co-accused Waryam Singh Kartar Singh on bail are relevant which read thus:

20. The applicant was arrested on 05/10/2019 and is now in custody for more than 4 years and 3 months. The trial is likely to take a long time to conclude. The accusations against the applicant undoubtedly are serious but in view of the circumstances enumerated above which are peculiar to the applicant's case, I am inclined to enlarge the applicant on bail. Even after a period of 11 months of the rejection of the earlier bail application, there has been no progress in the trial. The charges are not yet framed. The applicant cannot be indefinitely incarcerated as and by way of a pre-trial punishment. I am inclined to enlarge the applicant on bail by imposing stringent conditions.

21. In support of the view I take, let me place reliance on the decision in **Manish Sisodia Vs. Central Bureau of Investigation**. Their Lordships in para 26 observed thus:

"However, we are also concerned about the prolonged period of incarceration suffered by the appellant – Manish Sisodia. In *P. Chidambaram v. Directorate of Enforcement* (2020) 13 SCC 791, the appellant therein was granted bail after being kept in custody for around 49 days, relying on the Constitution Bench in *Shri Gurbaksh Singh Sibbia and Others v. State of Punjab* (1980) 2 SCC 565 and *Sanjay Chandra v. Central Bureau of Investigation* (2012) 1 SCC 40, that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case. Ultimately, the consideration has to be made on a case to case basis, on the facts. The primary object is to secure the presence of the accused to stand trial. The argument that the appellant therein was a flight risk or that there was a possibility of tampering with the evidence or influencing the witnesses, was rejected by the Court. Again, in *Satender Kumar Antil v. Central Bureau of Investigation and Another* (2022) 10 SCC 51, this Court referred to *Surinder Singh Alias Shingara Singh v. State of Punjab* (2005) 7 SCC 387 and

Kashmira Singh v. State of Punjab (1977) 4 SCC 291, to emphasise that the right to speedy trial is a fundamental right within the broad scope of Article 21 of the Constitution. In Vijay Madanlal Choudhary (supra), this Court while highlighting the evil of economic offences like money laundering, and its adverse impact on the society and citizens, observed that arrest infringes the fundamental right to life. This Court referred to Section 19 of the PML Act, for the in-built safeguards to be adhered to by the authorised officers to ensure fairness, objectivity and accountability. Vijay Madanlal Choudhary (supra), also held that Section 436A of the Code can apply to offences under the PML Act, as it effectuates the right to speedy trial, a facet of the right to life, except for a valid ground such as where the trial is delayed at the instance of the accused himself. In our opinion, Section 436A should not be construed as a mandate that an accused should not be granted bail under the PML Act till he has suffered incarceration for the specified period. This Court, in Arnab Manoranjan Goswami v. State of Maharashtra and Others (2021) 2 SCC 427 held that while ensuring proper enforcement of criminal law on one hand, the court must be conscious that liberty across human eras is as tenacious as tenacious can be."

5. The applicant is a woman. The investigation is complete. The charge-sheet has been filed. The applicant does not appear to be a flight risk. I am inclined to enlarge the applicant on bail but by imposing conditions. The trial is unlikely to conclude in the near future. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Anita Shankar Kirdat in connection with C.R. No.86/2019 registered with Economic Offences Wing, Banking-II, Mumbai (Bhandup Police Station, Mumbai,

C.R.No.375/2019) shall be released on bail on her furnishing P.R. Bond of Rs. 1,00,000/- with one or more local sureties in the like amount.

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall furnish her contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(g) In the event, the applicant has passport, the same shall be deposited with the trial Court. If she does not possess any passport, she shall file an affidavit in that regard before the trial Court within a period of two weeks from her release.

(h) The applicant shall not leave India without permission of the trial Court.

6. The application is disposed of.

(M. S. KARNIK, J.)