

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

CRIMINAL BAIL APPLICATION NO.3153 OF 2024

Nitin Madhav Vahalkar

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Ritesh Thobde a/w Ankita Rai & Zubi Ansari, for the Applicant.
Smt. M. R. Tidke, APP for the Respondent/State.

CORAM : SARANG V. KOTWAL, J.

DATE : 27th AUGUST, 2024

P. C.

1. The Applicant is seeking his release on bail in connection with C. R. No.326 of 2023 dated 9th June, 2023 registered at Vijapur Naka Police Station for the offence punishable under Sections 120B, 170, 171, 419, 420, 467, 468, 471, 472, 201 of IPC. The Applicant was arrested on 8th November, 2023 and since then he is in custody. The investigation is completed and the charge-sheet is already filed.

2. Heard learned counsel for the Applicant and learned APP for the Respondent/State.

3. The prosecution case in brief as follows :-

The FIR is lodged by one Shrishailkumar Hadimani. He was originally a resident Kalburgi, Karnataka State, but since about more than twenty seven years, he was residing in America. He had a cousin Revansiddha Hippargi, resident of Solapur. Both of them had

started a partnership firm. Since the informant was residing in America, his cousin Revansiddha Hippargi was looking after the business of their firm.

4. In 2018, when both of them had gone to a restaurant, the main accused – Manoj Godbole came there. Revansiddha Hippargi introduced Manoj Godbole to the informant. Manoj Godbole represented to the informant that he was working as Naib Tahsildar at Solapur. He showed an identity card bearing a Government seal showing that he was a Naib Tahsildar. He represented to the informant that he was in a position to get Government lands or private lands at lower price by making payment to the Government. The FIR goes on to mention as to how all this was false misrepresentation and as to how the informant was made to part with huge amounts. As per the FIR, the main accused – Manoj Godbole has taken the amount of Rs.4,00,00,100/-. The FIR was lodged and the investigation was carried out.

5. The story in the charge-sheet further elaborates as to how this offence was committed. On the first occasion, Manoj Godbole told the informant that the land at Survey No.10/A/1/2/A at Vijapur Road admeasuring 4 hectare was in the name of Government forest and that he was in a position to get that land for the informant at a much lesser price. He obtained the purported sale price from the informant. The main accused – Manoj Godbole sent a forged Government order and copies of the other documents viz.

7/12 extract, mutation entry and the map on the WhatsApp of the informant. In fact, all these documents were the forged documents and the seals on them were also forged. The story in the charge-sheet further goes on to mention as to how Manoj Godbole brought one fake customer to win the trust of the informant for that land, but subsequently that purported purchaser did not pay anything. The cheating did not stop at this, Manoj Godbole then obtained money purportedly for purchasing another land in the name of the informant situated at village Wanwadi, Pune at Survey No.122/R/8. Again photograph of forged Government order was sent to the informant on his WhatsApp. Similar offence was committed in connection with City Survey No.122/R/9, Survey No.110-A/1 at Hadapsar. Every time, he obtained huge amounts from the informant and had caused loss of Rs.3,52,80,100/- to the first informant. The charge-sheet story mentions that from the amounts received from the informant, some amounts were distributed to various other accused.

6. As far as the present Applicant is concerned, the role attributed to him was that he made those forged rubber stamps, which were used on the documents to make them appear as if they were the original seals and stamps of the Government. The Applicant was arrested on 8th November, 2023 and since then, he is in custody.

7. Learned counsel for the Applicant submitted that there is no admissible piece of evidence against the present Applicant in the entire charge-sheet. The memorandum Panchanama given by Manoj Godbole has not led to any discovery or recovery. The other portion in his memorandum statement is not admissible, as it amounts to confession before police. The memorandum statement given by the present Applicant also suffers from the same infirmity and nothing was recovered pursuant to the statement given by the Applicant. There is a Panchanama included in the charge-sheet, which pertains to some other offence, in which the search of the Applicant's house was conducted and different seals in large number were seized. However, none of those seals had any connection with the subject matter of this investigation. He further submitted that in the entire charge-sheet and after thorough investigation, there is nothing to show that the Applicant had received any monetary or other benefits from the main accused – Manoj Godbole.

8. Learned APP opposed these submissions. According to her, since the rubber stamps used in this offence were burnt, they could not be recovered, but that benefit could not be given to the Applicant. She submitted that the Panchanama in the earlier case shows that a large number of fake seals and rubber stamps were recovered from the Applicant, therefore, his involvement is clearly made out. She submitted that the offence is serious and the Applicant has previous antecedent, though in that case he is granted bail. She therefore opposed grant of bail to the Applicant.

9. I have considered these submissions and I have perused the charge-sheet annexed to this Application.

10. The first relevant document in the charge-sheet is the memorandum statement given by the main accused – Manoj Godbole on 8th November, 2023. After making the statement which is in the nature of confession, he added that the forged seals and stamps were made by the present Applicant. Manoj Godbole showed willingness to show the place where he had met the Applicant. Pursuant to that memorandum statement, the police party and the Panchas were led to the house of the Applicant. The house of the Applicant was searched, but nothing incriminating was recovered. Thereafter Manoj Godbole led the police and the Panchas to the Applicant's earlier office in the building known as Rubi Corner. When the police party was led to Room No.7, it was found to be locked. According to Manoj Godbole, that was the place where he had met the Applicant and that the Applicant was making forged seals and rubber stamps in that room. Since that room was locked, no search was conducted. From this memorandum statement and Panchanama, it is quite clear that nothing was recovered or discovered pursuant to the statement given by the main accused – Manoj Godbole on 8th November, 2023 against the present Applicant. Therefore, this particular material does not help the prosecution and the Investigating Agency.

11. The next relevant document is the memorandum of the statement given by the Applicant himself after his arrest. This statement was given on 10th November, 2023. In that statement ignoring the inadmissible part, which is in the nature of confession, the rest of the statement mentions that he was willing to show the place where he had made those rubber stamps and that he showed willingness to take out those rubber stamps. This statement was recorded in the presence of Panchas. The Applicant led the police and the Panchas to a bungalow at Mantri Chandak Park. According to the Applicant, it belonged to the co-accused Aditi Gosavi. The Panchanama further mentions that the Applicant had told the police that he used to make those stamps in a passage in front of that house and after that Manoj Godbole used those stamps on the documents and used to take photographs on his mobile phone. It was further mentioned that those seals and stamps were burnt by the Applicant, Manoj Godbole and Aditi Gosavi. Again, nothing was recovered pursuant to that statement. The said Panchanama makes a reference to CR/695/2021 registered at Bhosari Police Station under Sections, 465, 466, 467, 468, 472, 473, 474, 420 r/w 34 of IPC. In that connection, the police of Bhosari Police Station had taken search of the Applicant's office at Kondhwa and had seized 47 articles including the machine used for making those seals, CPU, printer, monitor etc.

Thus, it can be seen that nothing was recovered on 10th November, 2023 in the search conducted pursuant to the statement

given by the Applicant on that day.

12. The charge-sheet also contains the seizure panchanama in connection with CR/695/2021 of Bhosari Police Station. That Panchanama was carried out on 20th August, 2021 pursuant to the statement given by the Applicant, and as mentioned earlier, about 47 articles were recovered. Significantly, though those articles included the other forged seals and stamps, none of those seals and stamps were pertaining to the present crime, wherein the Government orders were forged and some seals were used in those orders. Therefore, that particular Panchanama is not related to present offence. In any case, the Applicant is already granted bail in connection with that particular offence.

13. I find force in the submissions of the learned counsel for the Applicant that the applicant was not shown to be a beneficiary in the present offence in any manner. After thorough investigation, the Investigating Agency did not find any monetary or other benefits derived by the Applicant from the main accused - Manoj Godbole in connection with the present crime. The Applicant is already in custody since 8th November, 2023. The investigation is over and the charge-sheet is filed. There is hardly any admissible evidence against the present Applicant. In this connection, the observations of the Hon'ble Supreme Court in the case of ***Krishna Damani Vs. State of West Bengal*** made in ***Criminal Appeal No.2743 of 2024 on 27th May, 2024***, are also relevant, which read thus :-

“A perusal of the counter affidavit filed by the respondent- State shows that investigation has been complete and a charge-sheet has been filed on 1st April, 2024 for the offences punishable under Sections 120B, 406, 403, 408, 409, 420 and 477A of the Indian Penal Code, 1860 (for short, “the IPC”). It is also mentioned that a supplementary charge-sheet will be filed as soon as a report of the experts of QDEB is received. It is stated that the supplementary charge-sheet will be on applicability of Section 467 of the IPC.

It is not in dispute that all the aforesaid offences are triable by the Court of the Magistrate. After the charge-sheet is filed, considering the nature of the offences, there is no reason to deny bail to the appellant. If there is any apprehension that the appellant may try to influence the prosecution witnesses, appropriate conditions can be always imposed while releasing the appellant on bail.”

14. Considering all these aspects, the Applicant has made out a case for his release on bail. Hence, the following order :-

ORDER

- (i) The Applicant is directed to be released on bail in connection with C. R. No.326 of 2023 dated 9th June, 2023 registered at Vijapur Naka Police Station on his executing PR bond in the sum of Rs.50,000/- with one or two sureties in the like amount.
- (ii) The Applicant shall not tamper with the evidence.
- (iii) The Applicant shall attend the concerned Police Station once in a fortnight for a period of six months from today.

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(iv) The Applicant shall co-operate in expeditious disposal of the trial.

(v) The Application is disposed of.

(SARANG V. KOTWAL, J.)