IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.368 OF 2024

Anant @ Sontu s/o Navratan Jain
Vs.
State of Maharashtra, Through Police Station Officer, Gittikhadan Police Station, Nagpur

---

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

---

Mr. S. V. Manohar, Senior Advocate assisted by Mr. G. S. Gour, Advocate for the applicant.
Mr. U. R. Phasate, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

RESERVED ON : 02.05.2024
PRONOUNCED ON : 08.05.2024

1. The applicant came to be arrested in connection with Crime No.816/2023, registered with Police Station Gittikhadan, Nagpur for the offences punishable under Sections 120-B, 409 and 420 of the Indian Penal Code (hereinafter referred to as 'the IPC').

2. The accusation against the present applicant is on the basis of report lodged by Assistant Police Inspector of Cyber Police Station, Nagpur and currently working with the Special Investigation Team for investigation of Crime No.67/2023 for the offences punishable under Sections 420, 468, 471, 386, 120-B of the IPC and Section 66(D) of the

Information Technology Act. In the said crime, on 23.07.2023, Investigating Officer Shubhangi Deshmukh had informed the Axis Bank, Gondia through a confidential communication to defreeze the accounts and lockers of the present applicant and his family members. Accordingly, during the investigation, on 01.08.2023, the lockers of the present applicant and his family were searched and the material in question was seized as per panchnama. The present applicant was arrested on 16.10.2023. During the investigation, a mobile iPhone-14 was seized from the present applicant and the cyber expert extracted some audio recordings from the said mobile phone. When the present applicant was inquired about the said recording, he disclosed that a person from Nagpur had told him that bank Manager Ankesh Khandelwal can help him to shift the valuables, money, Jewellery kept in locker to save it from confiscation and to shift in someone else’s locker. Then there was a communication between him and the said person and there was communication between him and the bank Manager. It is further revealed during the investigation that the co-accused Gaurav Bagga and Garima Bagga, who are acquainted with the bank Manager and the present applicant assisted him to shift the valuables from his locker to their locker by opening the new locker. Therefore, It was decided that present applicant would pay Rs.4 Crore to bank Manager Ankesh Khandelwal for this work. Accordingly, the properties from the said lockers were shifted in the lockers of co-accused Gaurav Bagga and Garima Bagga. After verifying the said audio recording, the crime was registered against the present applicant and other co-accused.

3. Learned Senior Counsel Mr. Manohar for the applicant submitted that present crime is the offshoot of, the crime bearing No.67/2023. Now the present applicant is already released on bail in Crime No.67/2023 registered under Section 386, 420, 468, 471, 201 and 120-B of the IPC and Section 66(D) of the Information Technology Act. He further submitted that the co-accused Ankesh Khandelwal is also released on bail in respect of the present crime against whom the allegations are that he helped the present applicant to shift the valuables from one locker to another. He submitted that at the relevant time, the applicant was in jail. He is implicated in the alleged offence on the basis of the audio clip, which is extracted from his mobile phone. The allegation against the present applicant is that, with the help of other co-accused, he had shifted the valuables to protect it from confiscation. As far as the investigation part is concerned, which is already over. The principal accused Ankesh Khandelwal who is the bank Manager is already released on bail by this Court. In view of that, the applicant be released on bail.

4. Learned APP Mr. Phasate strongly objected the said application on the ground that the offences are in the nature of economic offence. He submitted that the principal offence was registered against the present applicant under Sections 386, 420, 468, 471, 201, 120-B of the IPC and under Sections 66(D) of the Information Technology Act. He further submitted that with the help of the other co-accused by promising the bank Manager to pay the amount of Rs.4 Crorer, he shifted the valuables from one locker to another locker. It is the interference in the investigation. He further submitted that considering the nature of the offence wherein the allegation against the present applicant is that he enticed the complainant for betting in online gaming and duped him for Rs.8.50 Lakhs.

5. In support of his contention he placed reliance on the decision of the Hon'ble Apex Court in **Tarun kumar Vs. Assistant Director Directorate of Enforcement** reported in **2023 SCC OnLine SC 1486** wherein by referring its earlier decision the Hon'ble Apex Court held that in case of **Y. S. Jagan Mohan Reddy Vs. Central Bureau of Investigation** reported in **(2013) 7 SCC 439**, **Nimmagadda Prasad Vs. Central Bureau of Investigation** reported in **(2013) 7 SCC 466**, **Gautam Kundu Vs. Directorate of Enforcement** reported in **(2015) 16 SCC 1** and **State of Bihar Vs. Amit Kumar alias Bachcha Rai** reported in

(2017) 13 SCC 751. It is held 'The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to books. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the National Economy and National Interest. '

6. He submitted that similar is the fact in the present case. The complainant and the various persons in Crime No.67/2023 are duped by the present applicant by enticing them for unlawful betting, in view of that, the application deserves to be rejected.

7. Having heard the learned Senior Counsel for the applicant and learned APP for the State. The applicant was arrested in connection with Crime No.67/2023 registered with Cyber Police Station, Sadar, Nagpur for the offences punishable under Sections 386, 420, 468, 471, 201 and 120-B of the

IPC and Section 66(D) of the Information Technology Act. As per the allegation in that crime, the applicant enticed the complainant for betting in online gaming. On the payment of Rs.8.50 Lakhs by the complainant, the applicant gave the link of Diamondexch.com and User ID and Password along with the points wroth of Rs.8.50 Lakhs. Accordingly, the complainant started betting by playing online game on the link suggested. On losing in the said betting, the complainant from time to time paid the amount of Rs.77 Crores by cash as well as by bank transfer to the persons suggested by the applicant. The complainant could get back the winning amount of Rs.19,13,38,000/- and thereafter, he realized that he has been cheated by the applicant by manipulating gaming APP. On the basis of the said report, police have registered the crime.

8. During investigation of the aforesaid crime, a confidential intimation letter was issued by the Crime Detection Branch to the Gondia Branch of the Axis Bank on 23.07.2023, by which the bank was directed to freeze the accounts of the present applicant and his family members. The family members of the present applicant are also arrayed as an accused in the said crime. This fact came to the knowledge of the applicant and enlisted the services of the bank Manager Ankesh Khandelwal who was serving as a Manager of Gondia Branch of the Axis Bank. In order to safeguard his valuables which

included substantial cash and jewellary stored in such locker, as per the allegations, the present applicant and Manager of the Axis Bank Ankesh Khandelwal hatched a conspiracy to shift the valuables kept in a locker maintained by the co-accused Anant Jain and his family. The co-accused namely Garima Bagga and Gaurav Bagga transferred the said articles to another person Dinesh Kothari at the behest of the present applicant. Thus, the allegation against the present applicant is that during the pendency of the earlier crime registered against him, he has intervened in the investigation and tried to hamper the investigation by shifting the said articles in another locker. Admittedly, the said articles are already recovered. The investigation is also already completed in the present crime and the charge-sheet is filed.

9. Learned Senior Counsel for the applicant submitted that as the present crime is the offshoot of the crime No.67/2023 wherein the applicant is already released on bail. In the present case also the applicant shall be released on bail. He further submitted that the main accused the bank Manager in the present crime, who was actively participated in shifting of the articles in another locker is already released on bail by the learned trial Court. In view of that also the present applicant deserves to be released on bail.

10. He further submitted that now the issue regarding the economic offence is already settled and placed reliance on the judgment of **Satender Kumar Antil Vs. Central Bureau of Investigation and Anr.** reported in **2022 LiveLaw (SC) 577** wherein the Hon'ble Apex Court dealt with the nature of the economic offence and held that what is left for us now to discuss are the economic offences. The question for consideration is whether it should be treated as a class of its own or otherwise and referred the judgment of **P. Chidambaram v. Directorate of Enforcement** reported in **(2020) 13 SCC 791** wherein in para No.23 it is held that 'Thus, from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench of this Court, it could be deduced that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of "grave offence" and in such circumstance while considering the application for bail in such matters,

the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provide so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial.'

11. The Hon'ble Apex Court further refers the decision of **Sanjay Chandra vs. CBI** reported in **(2012) 1 SCC 40** wherein in para No.39 it is observed:

> "39. Coming back to the facts of the present case, both the courts have refused the request for grant of bail on two grounds, the primary ground is that the offence alleged against the

> accused persons is very serious involving deep-rooted planning in which, huge financial loss is caused to the State exchequer; the secondary ground is that of the possibility of the accused persons tampering with the witnesses. In the present case, the charge is that of cheating and dishonestly inducing delivery of property and forgery for the purpose of cheating using as genuine a forged document. The punishment for the offence is imprisonment for a term which may extend to seven years. It is, no doubt, true that the nature of the charge may be relevant, but at the same time, the punishment to which the party may be liable, if convicted, also bears upon the issue. Therefore, in determining whether to grant bail, both the seriousness of the charge and the severity of the punishment should be taken into consideration."

12. By referring above these two judgments it is held by the Hon'ble Apex Court that the grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to assure that he will submit to the

jurisdiction of the court and be in attendance thereon whenever his presence is required. It is further held that we are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge-sheet is already filed before the Special Judge. Therefore, their presence in the custody may not be necessary for further investigation.

13. Similar is the case in the present matter as the accused is already released on bail in a principal offence i.e. Crime No.67/2023 and the present crime is offshoot of the same. As far as the present offence is concerned, admittedly, it was registered when he was in jail and arising out of the Crime No.67/2023. So far as the apprehension of the learned APP the applicant may flee away or may leave India is concerned, it can be taken care of by imposing certain conditions on the applicant. In view of that, I proceed to pass following order.

ORDER

(i) The applicant **Anant @ Sontu s/o Navratan Jain** shall be released on bail on executing PR bond in the sum of Rs.50,000/- with one solvent surety in the like amount in connection with Crime No.816/2023 registered with Gittikhadan Police Station, Nagpur for the offences punishable under Section 120-B, 409 and 420 read with Section 34 of the Indian Penal Code.

(ii) The applicant shall not leave the Country without taking prior permission of the Court.

(iii) The applicant shall surrender his passport with the investigating agency, if not surrendered earlier.

(iv) The applicant shall attend the concerned Police Station once in a month between 10.00 am. to 12.00 noon on first day of every month until further orders.

(v) The applicant shall not indulge himself in a similar type of the activity.

(vi) In case of breach of any of the conditions imposed on the applicant would lead to the cancellation of bail.

14. The application is allowed in the above said terms and disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate