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

CRIMINAL APPLICATION (BA) NO.182/2024
Anand Prabhakar Kakde
..vs..
State of Maharashtra, through PSO PS Mouda, Taluka and District Nagpur Rural

WITH

CRIMINAL APPLICATION (BA) NO.232/2024
Veervyankatrao s/o Satyanarayan Wakalpudi
..vs..
State of Maharashtra, through PSO PS Mauda, District-Nagpur (Gramin)

WITH

CRIMINAL APPLICATION (BA) NO.404/2024
Pravin Narayan Mendhe
..vs..
State of Maharashtra, through PSO PS Mauda, Nagpur District (Rural), Nagpur

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

BA No.182/2024
Shri S.V.Sirpurkar, Counsel for the Applicant.
Shri N.B.Jawade, Additional Public Prosecutor for the State.

BA No.232/2024
Shri A.C.Jaltare, Counsel for the Applicant.
Shri N.B.Jawade, Additional Public Prosecutor for the State.

BA No.404/2024
Shri M.N.Ali, Counsel for the Applicant.
Shri N.B.Jawade, Additional Public Prosecutor for the State.

CORAM : URMILA JOSHI-PHALKE, J.
CLOSED ON : 02/08/2024
PRONOUNCED ON : 08/08/2024

COMMON ORDER

1. By these applications, being moved under Section 439 of the Code of Criminal Procedure, applicants seek regular bail.

2. Though crime number in these applications is the same, Sections under which the crime is registered are different and, therefore, details of the crime number are being separately mentioned in these applications.

3. **<u>Criminal Application BA No.182/2024</u>** : In this application, applicant – Anand Prabhakar Kakde (accused Anand Kakde), seeks regular bail in connection with Crime No.783/2023 registered with the non-applicant/police station for offences punishable under Sections 109, 409, 413, 420, 467, 468, 471, and 120-B of the Indian Penal Code and 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (the MPID Act) and 66D of the Information Technology Act, 2000.

4. **<u>Criminal Application BA No.232/2024</u>** : In this application, applicant Veervyankatrao s/o Satyanarayan Wakalpudi (accused V.S.Wakalpudi) seeks regular bail in connection with Crime No.783/2023 registered with the non-applicant/police station for offences punishable under Sections 406, 409, 411, 413, 420, 465, 467, 468, 471, 120-B, 109, and 201 of the Indian Penal Code and 66D of the

Information Technology Act along with 3 of the MPID Act.

5. **<u>Criminal Application BA No.232/2024</u>** : In this application, applicant Pravin Narayan Mendhe (accused Pravin Mendhe) seeks regular bail in connection with Crime No.783/2023 registered with the non-applicant/police station for offences punishable under Sections 409, 411, 413, 420, 465, 467, 468 471, 201, and 120-B of the Indian Penal Code read with 3 of the MPID Act.

6. All the accused came to be arrested and they are in jail.

7. The crime is registered on the basis of report lodged by one Ramkrushna Manikarao Nimbulkar (complainant Ramkrushna Nimbulkar) alleging that he and his friends Vijay Wankhede and Nilkanth Chikhale are farmers. Ramanrao Bolla (co-accused Ramanrao Bolla) owns a warehouse at Gumthala and deals a business in paddy, pulses and other food grains like grams. One Roshan Pande, driver working with accused V.S.Wakalpudi, approached complainant Ramkrushna Nimbulkar and other farmers and informed that the Government is implementing a Scheme and granting compensation to small farmers who suffered losses and are victims of natural calamities. On the basis of the same, accused V.S.Wakalpudi took complainant Ramkrushna Nimbulkar and other

farmers to bank. Their documents, like Aadhar Cards, Photographs, Identity Proofs, were obtained on a pretext of opening of bank accounts for depositing compensation amount. At the relevant time, accused V.S.Wakalpudi introduced them with co-accused Ramanrao Bolla, who informed complainant Ramkrushna Nimbulkar and farmers that for receiving the compensation, accounts are to be opened in bank and their documents are required for the same. They were also administered liquor and, thereafter, complainant Ramkrushna Nimbulkar and other farmers received notices from Corporation Bank on 9.4.2018 asking them to repay loan amount and, therefore, complainant Ramkrushna Nimbulkar visited Advocate Chikhale to find out why notices were issued to them and he and other farmers came to know that the bank advanced loan in favour of complainant Ramkrushna Nimbulkar and other farmers and a loan amounts are outstanding against them. Thereafter, complainant Ramkrushna Nimbulkar met accused V.S.Wakalpudi and co-accused Ramanrao Bolla and informed them about notices issued to them. Accused V.S.Wakalpudi and co-accused Ramanrao Bolla assured them that whatever loans shown in their names are secured and the same shall be refunded within two years. As accused V.S.Wakalpudi and co-accused Ramanrao Bolla obtained signatures of complainant

Ramkrushna Nimbulkar and other farmers, they approached the police station and lodged the report on the basis of which the crime was registered.

8. Insofar as accused Anand Kakde is concerned, it was alleged against him that he also assured various farmers, obtained their documents, and handed over the same to accused V.S.Wakalpudi and the same documents were used for obtaining loans in their names. Accused Anand Kakde received pecuniary gain from the said activities and, therefore, he was also arraigned as accused.

9. Insofar as accused Pravin Mendhe is concerned, he was an employee of The National Commodities Management Services Limited (NCML) and worked as Business Development Manager. During investigation, it revealed that he was employee and was instrumental to dispose of food grains which were mortgaged against the loan and he issued release order without verifying fact that the amount is outstanding against them. Audit Report shows involvement in disposing of food grains which were mortgaged against loans and releasing of the same. Accused Pravin Mendhe, also received a pecuniary gain by committing the said act.

10. Heard learned counsel Shri S.V.Sirpurkar for accused Anand Kakde; learned counsel Shri A.C.Jaltare for accused V.S.Wakalpudi, learned counsel Shri M.N.Ali for accused Pravin Mendhe, and learned Additional Public Prosecutor Shri N.B.Jawade for the State.

11. Learned counsel Shri S.V.Sirpurkar, submitted that name of accused Anand Kakde is not figured in the First Information Report and no allegation is levelled against him. As regards offences under Sections 467 and 409 of the Indian Penal Code, the said offences are not made out against accused Anand Kakde. Accused Anand Kakde has not received any financial benefits. Investigation is not fair as one person by name Roshan Pande is not made accused. As such, accused Anand Kakde be released on bail.

12. In support of his contentions, learned counsel Shri S.V.Sirpurkar placed reliance on following decisions:

1. Sanjay Chandra vs. Central Bureau of Investigation, reported in (2012)1 SCC 40, and

2. Arnesh Kumar vs. State of Bihar, reported in (2014)8 SCC 273.

13. Learned counsel Shri A.C.Jaltare, submitted that

accused V.S.Wakalpudi is arrested in respect of the above crime on an allegation that accused V.S.Wakalpudi inducted various farmers, who are landless or less lands, on account of getting benefits of compensation receivable from the Government. He submitted that accused V.S.Wakalpudi is neither borrower nor guarantor. He further submitted that loans were taken in names of 150 farmers and co-accused Ramanrao Bolla acted as guarantor. The amounts of loans were transferred in names of various persons. The farmers received notices from the bank and, thereafter, it came to knowledge that co-accused Ramanrao Bolla obtained documents from various farmers and obtained loans and amounts were siphoned. As far as accused V.S.Wakalpudi is concerned, no amount is transferred in his bank account or no amount was received by his relatives. He submitted that loans are obtained in the name of wife and parents of accused V.S.Wakalpudi. Thus, accused V.S.Wakalpudi is also victim at the hands of co-accused Ramanrao Bolla. He further submitted that now investigation is already completed and chargesheet is already filed. As regards statements of various witnesses, though the same are taken into consideration, it shows that loans are obtained by co-accused Ramanrao Bolla in names of farmers. Considering facts that accused V.S.Wakalpudi is also one of victims at the hands of co-accused Ramanrao Bolla, he has not received any pecuniary gain, investigation is completed, and chargesheet is filed, further incarceration of accused V.S.Wakalpudi is not required and, therefore, he be released on bail.

14. Learned counsel Shri M.N.Ali, submitted that accused Pravin Mendhe is employee of the NCML and worked as Business Development Manager. Insofar as involvement of accused Pravin Mendhe is concerned, there is absolutely no connection with the alleged offence. In the First Information Report, there is no allegation against accused Pravin Mendhe. The investigating shows that the corporation bank and the NCML entered into Collateral Management Agreement whereby the NCML was to certify about Weight Storage Quantity and market price of foods grains stored by respective farmers. The bank has not made any complaint regarding deficiency of any services by the NCML or any authorized release. Thus, there is no material to connect accused Pravin Mendhe with the alleged offence and, therefore, he be released on bail.

15. Learned Additional Public Prosecutor Shri N.B.Jawade, submitted that it is a huge scam committed by accused Anand Kakde, accused V.S.Wakalpudi, accused Pravin Mendhe, and other co-

accused. The said accused persons and other co-accused chose farmers who are either landless or less land and obtained documents from them on a pretext that in view of the Government Scheme, they would receive compensation and, therefore, they have to open bank accounts. Accordingly, bank accounts are opened in their names and 159 loan cases were prepared with the corporation bank, 22 with the IDBI Bank, and 3 with the Vaishya Bank. Statements of victims and other farmers reflect role of each of accused persons. Loans are obtained with coalition of CCLL. A huge amount of scam was hatched wherein amount involved is Rs.145,25,00,168/-. Insofar as accused V.S.Wakalpudi is concerned, he is not only involved in inducement but also received pecuniary benefits. Loan papers were prepared in one day and loans were sanctioned on the same day. Accused V.S.Wakalpudi received a pecuniary gain in the said scam and along with the other co-accused and preferred one time settlement proposal before the DRT. During course of investigation, it revealed that accused V.S.Wakalpudi used to apply for loan by mortgaging crops and other co-accused, who was grain merchant, used to purchase grains from open market and he used the said grains for obtaining loans in names of persons who are having no land or less lands. The said grains were kept as mortgage. Accused

V.S.Wakalpudi and co-accused kept 50% of grains and 50% of chaff and, thereafter, officers of the collateral companies, who are appointed for surveying the same, namely of the NCML, gave fake data to the companies' office and on the basis of which Valuation Certificates were prepared by the company on the basis of which loans were advanced by the banks. Signatures of bank account holders were obtained on blank cheques and amounts were diverted to accounts of their relatives. Thus, from the money trial, it reveals that huge scam worth of more than Rs.145.00 crores was committed by accused V.S.Wakalpudi.

He submitted that as far as accused Anand Kakde is concerned, he has received a monetary gain by assisting other co-accused. He submitted that accused Anand Kakde has received Rs.12,27,804/-. Thus, involvement of accused Anand Kakde reveals not only on the basis of the investigation as to pecuniary gain but also from statements of various witnesses.

He submitted that as far as accused Pravin Mendhe is concerned, the said accused was working as Business Development Manager in NCML, a Collateral Company appointed for capital loans, and used to act as agent between the bank and farmers who required liquidity of cash. The said liquidity could be obtained by mortgaging agricultural produce. The NCML used to satisfy the quantity and valuation on the basis of which the bank used to disburse loans to the extent of 75% of valuation made by the NCML. The statements of witnesses show that the accused have received lacs of amount in cash from the co-accused for issuing fake warehouse receipts. The statements of officials show manner in which the fraud was committed by accused Pravin Mendhe with the help of other co-accused. The Audit Report and Inspection Report also show involvement of accused Pravin Mendhe in the said scam. Thus, there is a *prima facie* material against all accused persons and, therefore, applications of accused persons deserve to be rejected.

16. In support of his contentions, learned Additional Public Prosecutor Shri N.B.Jawade placed reliance on following decisions:

1. Nimmagadda Prasad vs. Central Bureau of Investigation, reported in 2013 ALL SCR 2184;

2. Y.S.Jagan Mohan Reddy vs. Central Bureau of Investigation, reported in 2013 ALL SCR 2224;

3. Virupakshappa Gouda and anr vs. The State of Karnataka and anr, reported in 2017 ALL SCR (Cri) 843;

4. Narinderjit Singh Sahni and anr vs. Union of India, reported in 2002 ALL MR (Cri) 430 (SC);

5. The State of Bihar and anr vs. Amit Kumar @ Bacha Rai, reported in 2017 ALL MR (Cri) 3998 (SC), and

6. Dr.Vinod Bhandari vs. State of M.P., reported in 2015 AIR SCW 1052.

17. Heard learned counsel appearing for accused persons. Perusal of investigation papers shows that the report is lodged on an allegation that complainant Ramkrushna Nimbulkar, who is farmer, and other farmers, who are either landless or less land, were selected and called by accused V.S.Wakalpudi through his driver Roshan Pande. They were induced on a pretext that they can receive compensation against natural calamities and their documents were obtained and by using the said documents, bank accounts were opened in their names and 184 loan proposals were prepared in their names. The farmers were not aware about this fact and when they received notices from the bank, they came to know that they were duped and, therefore, they approached the police station and lodged the report on the basis of which the crime was registered. During investigation, it revealed that the bank accounts were opened in the names of farmers and cheque books and other documents were misused. The scam is worth of Rs.145,25,00,168/- involving three banks namely Corporation Bank, IDBI Bank and Vaishya Bank.

159 loan cases were prepared with the corporation bank, 22 with the IDBI Bank, and 3 with the Vaishya Bank. It further revealed that the accused persons and other co-accused used to apply for loans by mortgaging crops with these beneficiaries. The other co-accused, who were grain merchants, used to purchase grains from open market and the said grain was used for obtaining loans in names of persons having landless or less land. While keeping grains as mortgage, accused V.S.Wakalpudi along with co-accused Ramanrao Bolla used to keep 50% of grains and 50% of chaffs. The officers of the NCML, who were supervising, were also managed by giving them pecuniary benefits, forged reports were prepared and by showing forged data of food grains by showing the same as mortgage, loans' amounts were obtained and the same were misappropriated. The statements of various witnesses show involvement of accused V.S.Wakalpudi in the alleged scam.

18. Insofar as accused Anand Kakde is concerned, statements of witnesses show that he approached farmers and obtained their documents on the pretext of giving benefits to them and misused the same. Said accused Anand Kakde received a pecuniary gain by committing the said act.

19. Insofar as another accused Pravin Mendhe is concerned, investigation revealed that his job was to bring business for the company. The company used to certify crops kept either in its godowns or in private godowns and used to certify quantity and value of grains and used to issue certificates. On the basis of the said certificates, loans were sanctioned in names of farmers and sanctioned loans' amounts were withdrawn by using cheques signed by farmers and amounts were siphoned. Said accused Pravin Mendhe used to prepare false reports of stock of food grains and also used to issue false reports. He was aware about the stock which was 50% food grains and 50% chaffs. The food grains in 34 loan cases to the tune of Rs.16,58,83,400/- were released without repayment of loans. Thus, involvement was completely revealed.

20. Perusal of investigation papers reveals that loans were obtained in the names of various farmers who are either landless or less land. The certificate issued by the Talathi shows list of persons against whom there is no land in their names.

21. During investigation, the investigating officer has also collected copy of the application filed by accused V.S.Wakalpudi before the DRT for one time settlement. The copy of the application

was seized by the investigating officer.

22. The statements of farmers sufficiently show involvement of accused V.S.Wakalpudi as well as accused Anand Kakde. Insofar as involvement of accused Anand Kakde is concerned, there are various statements of witnesses showing his involvement in economic offences.

23. The statement of bank official Gauri Patankar also substantiates allegations that loans were obtained in respect of foods grains stored in the godown of co-accused Ramanrao Bolla and and bogus release orders were issued by the NCML officers and the said food grains were disposed of from the godowns. Regarding the said incident, farmers have placed their grievances before the District Collector also.

24. As far as sanction of loans is concerned, Confidential Reports of the Executive Director and the Chief Executive Officer of Fraud Monitoring Cell also point out that loans were sanctioned against agricultural produce stores in the godown owned by co-accused Ramanrao Bolla, Rakesh Singh, and Nutan Singh. Godown owners sourced the CAPL borrowers from surrounding villages of Nagpur and providing guarantors to loans. It further points out that

irregularities and illegalities were committed while sanctioning loans.

25. Thus, it is crystal clear from the investigation that it was accused V.S.Wakalpudi, who approached to various farmers and promised them that they will get compensation and thereby he obtained their documents and loan amounts were sanctioned against their names and amounts were siphoned.

26. As far as accused Anand Kakde is concerned, who had received amount Rs.12,27,804/- from accused V.S.Wakalpudi, statements of farmers show that accused Anand Kakde approached them and obtained their documents.

27. As far as accused Pravin Mendhe is concerned, his involvement is also revealed from investigation papers. Statements of Kunj Bihari and Rajendra Singh Thakur and the Inspection Report show that he prepared false reports as to the stock which was mortgaged and, therefore, show cause notice was issued to him by the company raising allegation as to his integrity. It was alleged that during Internal Stock Audit of the godowns supervised by accused Pravin Mendhe various illegalities committed by him are noted.

28. Thus, *prima facie* case is made out against all accused

persons.

29. Learned counsel Shri S.V.Sirpurkar, placed reliance on the decision in the case of **Sanjay Chandra vs. Central Bureau of Investigation** *supra* wherein considerations for bail are considered and it has been held relevant considerations in granting bail, gravity of offence and severity of punishment. Gravity alone cannot be decisive ground to deny bail. Competing factors to be balanced by court while exercising discretion. The Honourable Apex Court has also considered involvement of accused therein in economical offence and released applicants on bail.

30. In the case of **Arnesh Kumar vs. State of Bihar** *supra*, directions are in respect of offences for which punishment of less than 7 years is provided.

In the present case, insofar as involvement revealing economic offence of accused persons is concerned, allegations of misappropriation of the public money sanctioned in the names of farmers are levelled against them.

The decision of **Arnesh Kumar vs. State of Bihar** *supra* is not applicable to the present case as punishment provided under Section 409 of the Indian Penal Code is imprisonment for life or with imprisonment of either description for a term which may extend to ten years.

31. Perusal of the entire material collected during investigation reveals that all accused persons are involved in a huge scam wherein victims are farmers who are either landless or less land.

32. Learned Additional Public Prosecutor for the State submitted that loans were obtained in names of farmers and by obtaining their signatures on blank cheques amounts were withdrawn by accused V.S.Wakalpudi and co-accused Ramanrao Bolla and the same were siphoned.

33. From the evidence on record it is apparent that in the conspiracy by all the accused persons poor farmers were deceived and due to this incident, some of farmers have committed suicide and some had undergone mental stress. It further appears from the evidence on record that whatever incomes the poor farmers received by doing any other work were also taken away by the bank in recovery proceedings.

34. As regards the economic offence, learned Additional Public Prosecutor for the State placed reliance on catena of decisions

wherein the Honourable Apex Court has considered that while granting bail, the court has to keep in mind nature of accusations, nature of evidence in support thereof and severity of punishment.

35. The Honourable Apex Court, while dealing with offence, involving conspiracy to commit economic offences of huge magnitude, in the case of **Y.S.Jagan Mohan Reddy vs. CBI**, *supra,* laid down following parameters:

> i) economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country, and
>
> ii) while granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interest of the public/State and other similar considerations.

The similar observations are in the cases of **Virupakshappa Gouda and anr vs. The State of Karnataka and anr** *supra*; **Dr.Vinod Bhandari vs. State of M.P.** and *supra* **Narinderjit**

Singh Sahni and anr vs. Union of India *supra*.

36. Thus, it is a consistent view that socio-economic offences have deep rooted conspiracies affecting moral fibre of the society and causing irreparable harm which needs to be considered seriously. The socio-economic offences constitute a class apart and need to be visited with a different approach in the matter of bail.

37. In the light of the above and in view of a *prima facie* case is made out against all accused persons, applications deserve to be rejected and the same are **rejected**.

Applications stand **disposed of**.

(**URMILA JOSHI-PHALKE, J.**)

!! BrWankhede !!