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

CRIMINAL APPLICATION (BA) NO.418 OF 2024
(Deepak Gyaniram Amkar Vs. State of Maharashtra)

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

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Mr. R.M. Daga, Advocate for the applicant.
Mr. A.G. Mate, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JULY 1, 2024.

By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 07/09/2023 in connection with Crime No.266/2023 registered with Police Station Bajaj Nagar, Nagpur, District Nagpur for the offence punishable under Sections 406, 420, 467, 468, 471 read with Section 34 of the Indian Penal Code.

2. The accusation against the present applicant is that the informant is running Biocon Scientific Company at Pune and was providing the equipment of lab by obtaining tenders. He came into the contact with the present applicant through his friend by name Arnav Kumbhalkar. Thereafter there was agreement between the informant and the applicant and one purchase order was completed worth of Rs.90,000/-. Thereafter applicant informed the informant that he has received a purchase order of Rs.88,50,000/- from IIIT Institute Dongargaon,

Nagpur and the informant had agreed to complete the said purchase order and further agreed to pay commission of Rs.9,50,000/- to the present applicant. Thereafter from time to time informant has paid Rs.19,00,000/- to the applicant. The informant has not received purchase order from IIIT Institute Dongargaon for Enterprise Resource Planning (ERP) System Software. It was a forged purchase order prepared by the present applicant and same was shown to the informant and work order was given and obtained Rs.19,00,000/- and thereby cheated the informant.

3. Learned Counsel for the applicant submitted that similar type of the offence was registered against the present applicant at Sonegaon police station vide Crime No.241/2023 wherein he is already released on bail by the Sessions Court, in the light of the decision of ***Sanjay Chandra v. CBI [(2012) 1 SCC 40]***. He submitted that even accepting the allegation as it is, now investigation is completed and charge-sheet is filed, further incarceration of the applicant is not required. In a connected crime, the applicant is already released on bail. He further placed reliance on the observation of the Hon'ble Apex Court in the case of ***P. Chidambaram Vs. Directorate of Enforcement, (2020) 13 SCC 791.***

4. Learned APP strongly opposed the said application and submitted that the repeated offences are registered against the present applicant. During

investigation, the Investigating Officer has collected various documentary evidence including work orders and the bank statements of the applicant and the informant. The statements of various witnesses recorded during the investigation substantiates the contention which is raised by the informant in the FIR. He submitted that thus by preparing the forged purchase order the work order was issued to the complainant and the complainant was duped for a huge amount of Rs.19,00,000/-. Thus, considering the *prima facie* case the application deserves to be rejected.

5. I have heard learned Counsel for the both the parties. Perused the entire investigation papers from which it reveals that the applicant has represented himself and also shown the purchase order received from the IIIT Institute Dongargaon and represented the complainant that if a complainant fulfills the said order he would get a good benefits and obtained Rs.19,00,000/- from him time to time. Thus, *prima facie* statement of the informant as well as the other witnesses substantiates the contention and shows the involvement of the present applicant in the alleged offence.

6. There is no dispute as to the fact that there is a *prima facie* material against the present applicant in the alleged offence. It is also not disputed that the similar type of the crime was registered against the present applicant at Sonegaon police station bearing Crime No.241/2023

under Section 409, 420, 468, 471 of IPC and under Section 66(d) of the Information Technology Act, 2000 wherein he is already released on bail by the Sessions Court. When he was arrested in the said crime, the production warrant of the present applicant was obtained and he is arrested in the present crime. Thus, the *prima facie* involvement of the present applicant is revealed from the investigation papers but now investigation is already completed and charge-sheet is filed. The Hon'ble Apex Court in the case of ***Satender Kumar Antil Vs. Central Bureau of Investigation, [(2022) 10 SCC 51]*** wherein referred the case of *P. Chidambaram Vs. Directorate of Enforcement (supra)* and *Sanjay Chandra v. CBI* (*supra*) and also observed that the question for consideration is whether it should be treated as a class of its own or otherwise. The issue has already been dealt with by this Court in the case of *P. Chidambaram v. Directorate of Enforcement (supra)* and further held that an economic offence cannot be classified as such, as it may involve various activities and may differ from one case to another. Therefore, it is not advisable on the part of the court to categorize all the offences into one group and deny bail on that basis. By referring both the judgments it is further observed 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 jeopardize 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, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation.

7. Similar are the circumstances in the present case. Though the huge money is involved which is obtained by the present applicant from the informant. However, considering now the investigation is already completed and charge-sheet is filed, therefore, further incarceration of the applicant is not required. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The applicant – Deepak Gyaniram Amkar in connection with Crime No.266/2023 registered with Police Station Bajaj Nagar, Nagpur, District Nagpur for the offence punishable under Sections 406, 420, 467, 468, 471 read with Section 34 of the Indian Penal Code, be released on bail on executing P.R. Bond in the sum of Rs.50,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the police station Bajaj Nagar, Nagpur twice in a month i.e. 1st and 15th day of every month and the Investigating Officer shall record his presence.

(iv) The applicant shall not leave the jurisdiction of Gondia district without prior permission of the Nagpur disrict Court.

(v) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*