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

CRIMINAL APPLICATION (BA) NO.604/2024
Dhananjay s/o Ashokrao Deshmukh
..vs..
State of Maharashtra, through Police Station Officer, Police Station Digras, District Yavatmal

AND

CRIMINAL APPLICATION (BA) NO.630/2024
Sujit Himmatrao Ingole
..vs..
State of Maharashtra, through Police Station Officer, Police Station Digras, District Yavatmal

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

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BA No.604/2024
Shri P.R.Agrawal, Counsel for the Applicant.
Ms.T.H.Udeshi Additional Public Prosecutor for the State.

BA No.630/2024
Shri S.G.Varshani, Counsel for the Applicant.
Ms.T.H.Udeshi Additional Public Prosecutor for the State.

CORAM : URMILA JOSHI-PHALKE, J.
CLOSED ON : 21/08/2024
PRONOUNCED ON : 26/08/2024

COMMON ORDER

1. By these applications, applicant Dhananjay s/o Ashokrao Deshmukh (in BA No.604/2024) and applicant Sujit Himmatrao Ingole (in BA No.630/2024) seek regular bail in connection with Crime No.79/2024 registered with the non-

applicant/police station for offences punishable under Sections 409, 420, 468, and 471 read with 34 of the Indian Penal Code.

2. Applicant Dhananjay Deshmukh and applicant Sujit Ingole came to be arrested on 16.3.2024 and 16.4.2024 respectively. They are, hereinafter, referred as accused Dhananjay and accused Sujit.

3. The crime is registered on the basis of report lodged by Manager of the Yavatmal District Central Cooperative Bank at Digras. As per the report, co-accused Bhaskar Shinde was working as Branch Manager and accused Sujit was working as Cashier and accused Dhananjay was working on contract basis as Clerk in the said bank. As per Special Auditor Report of the said bank for the years 2016; 2018; 2019; 2021, and 2022, accused Dhananjay and accused Sujit along with other co-accused persons prepared fabricated record and false voucher and maintained false bank accounts and misappropriated amount Rs.2,86,36,383/- of the Government Schemes which came to be deposited in Suspense Accounts of the said bank by the Government Offices for the purposes of distribution to beneficiaries of the said various Schemes like food relief, rehabilitation, crops, insurance, cotton relief fund, and crop loss fund, and forest fund. Pertaining to the above referred Government Schemes, the said amount was deposited in the

said bank and the said bank has to distribute the same to such beneficiaries as per list given to them by transferring the same in their bank accounts. However, accused Dhananjay and accused Sujit along with other co-accused persons, who were aware about fact that there is a substantive amount left in the Suspense Accounts and various farmers having their bank accounts in the said bank are not operating their bank accounts and are never turning to the said bank for any transactions, by identifying these persons, transferred the said amount to their bank accounts and withdrawn the same by forging signatures on the bank withdrawal slips. On the basis of the said report, the crime was registered against accused Dhananjay and accused Sujit.

4. Heard learned counsel Shri P.R.Agrawal for accused Dhananjay; learned counsel Shri S.G.Varshani for accused Sujit, and learned Additional Public Prosecutor Ms.T.H.Udeshi for the State.

5. Learned counsel for accused Dhananjay submitted that accused Dhananjay was contractual employee. Insofar as role of the said accused is concerned, general allegations are made against him. Co-accused, who is responsible officer, is already released on bail. As regards the offence under Section 409 of the Indian Penal Code is concerned, the same is not

attracted as there was no entrustment of any property to the said accused. He further submitted that the informant was not authorized person to lodge the report. Now, investigation into the crime is completed and chargesheet is already filed and, therefore, further custody of accused Dhananjay is not required. As such, he prays that the application be allowed and accused Dhananjay be released on bail.

6. In support of his contentions, learned counsel for accused Dhananjay placed reliance on the decision of the Division Bench of this court in the case of **Mahadeorao Uttamrao Rajurkar vs. The State of Maharashtra, through PSO of PS Rajapeth, Amravati, district Amravati and ors, reported in 2020 ALL MR (Cri) 4325.**

7. Learned counsel for accused Sujit submitted that co-accused Bhaskar Shinde is already released on bail against whom the similar allegations are made. As per allegations, accused Dhananjay and accused Sujit and other co-accused persons transferred the amount from the Suspense Account to bank accounts of various farmers and misappropriated the same. General allegations are made against accused Sujit. Now, investigation into the crime is completed and chargesheet is already filed and, therefore, further custody of accused Sujit is

not required. As such, he prays that the application be allowed and accused Sujit be released on bail.

8. In support of his contentions, learned counsel for accused Sujit placed reliance on following decisions of this court:

> **1. Criminal Application (BA) No.1427/2022 (Priyanka w/o Abhishek Pacchao vs. State of Maharashtra) decided on 18.1.2024;**
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> **2. Criminal Application (BA) No.368/2024 (Anant @ Sontu s/o Navratan Jain vs. State of Maharashtra, thr.PSO, Gittikhadan PS, Nagpur) decided on 8.5.2024, and**
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> **3. Manish Sisodia vs. Directorate of Enforcement, reported in 2024(3) RCR (Cri) 877.**

9. *Per contra,* learned Additional Public Prosecutor for the State submitted that during investigation it revealed that 442 dormant bank accounts in the names of various farmers have been targeted by accused Dhananjay and accused Sujit to withdraw the amount from the said bank on the basis of fabricated record and forged bank withdrawal slips. Total misappropriated amount is Rs.2,86,36,383/-. Insofar as co-accused, who is released on bail, is concerned, the said co-accused has deposited amount which came to his share and by considering the said fact, he was released on bail. As regards accused Dhananjay and accused Sujit, statements of witnesses show that accused Dhananjay approached various farmers, who

are having their bank accounts, and obtained bank withdrawal slips from them and the said withdrawal slips were used to misappropriate the amount. The Government money deposited to compensate beneficiaries, who are victims of either natural calamities or due to loss caused to them, was misappropriated by accused Dhananjay and accused Sujit. Involvement of accused Dhananjay and accused Sujit is in economic offence. Considering huge amount of the Government Schemes is misappropriated and still further investigation to ascertain fact regarding bogus withdrawal slips is under progress, the applications be rejected.

10. Having heard learned counsel appearing for respective parties and perused investigation papers, it reveals that the Bank Manager of the said bank has lodged the report after receipt of the Audit Report. Perusal of the Audit Report shows that various amounts under the Government Schemes to compensate victims of natural calamities were deposited in the Suspense Accounts of the said bank. At the relevant time, accused Sujit was serving as Cashier and accused Dhananjay was serving as Clerk on contract basis. They identified bank accounts of farmers which are not in operation and hatched the conspiracy. In pursuance of the said conspiracy, accused Dhananjay contacted such farmers, obtained their signatures on

blank withdrawal slips, and transferred amounts from Suspense Accounts and misappropriated the same. Accused Dhananjay and accused Sujit along with co-accused targeted total 442 bank accounts to commit such misappropriation. Their intention can be ascertained from statements of witnesses, which show that farmers, who are not operating their bank accounts, are identified, they are contacted and, thereafter, amounts were transferred into their accounts and the same were withdrawn. By way of adopting the said procedure, amount Rs.2,86,36,383/- is misappropriated. During investigation, it further revealed that with forged signatures, some amounts were withdrawn. Statements of some employees of the said bank were also recorded, which show that their ID and Passwords, which were known to accused Dhananjay and accused Sujit, have been misused for transferring amounts from the Suspense Accounts to bank accounts which were targeted. Though chargesheet is filed, still, further investigation to recover and seize bogus bank withdrawal slips is under progress.

11. Insofar as reliance on decisions by this court in other bail applications is concerned, by taking into consideration facts of those cases, discretion was used in favour of applicants therein.

12. Learned counsel appearing for accused Dhananjay and learned counsel appearing for accused Sujit, submitted that other co-accused is released on bail and, therefore, on the ground of parity, accused Dhananjay and accused Sujit be released on bail.

13. It was submitted by learned Additional Public Prosecutor for the State that the co-accused, who was released on bail, deposited some amount and, therefore, his bail application was considered. Moreover, role of the said co-accused released on bail and role of accused Dhananjay and accused Sujit are different. Insofar as accused Sujit, serving as Cashier of the said bank, is concerned, the said accused cleared vouchers which were forged one. Whereas, accused Dhananjay is concerned, statements of witnesses show that he approached various farmers whose bank accounts were not in operation and obtained their signatures on bank withdrawal slips. The said withdrawal slips were used at the time of withdrawing amounts.

14. It is pertinent to note that amounts of the entire misappropriation were deposited in the said bank in Suspense Accounts as the Government was running various Schemes to compensate farmers who were beneficiaries to receive amounts. The said amounts were deposited in the said bank and the said

bank has to distribute the said Government Aid by transferring to their respective bank accounts of farmers.

15. Thus, the Government Money was misappropriated by accused Dhananjay and accused Sujit.

16. As regards the parity, the Honourable Apex Court, in the case of **Ramesh Bhavan Rathod vs. Vishanbhai Hirabhai Makwana (Koli) and anr, reported in (2021)6 SCC 230,** held that while considering the parity, while granting bail, the court must focus on role of the accused and not only weapon carried by accused. It is further observed that Merely observing that another accused who was granted bail was armed with a similar weapon is not sufficient to determine whether a case for the grant of bail on the basis of parity has been established. In deciding the aspect of parity, the role attached to the accused, their position in relation to the incident and to the victims is of utmost importance.

17. The involvement of accused Dhananjay and accused Sujit is in economic offence.

18. Though the chargesheet is filed, further investigation into the crime as to forgery of documents is in

progress. Still, some documents are to be seized as far as illegal bank withdrawals are concerned.

19. It is well settled position of law that jurisdiction to grant bail has to be exercised having regard to facts and circumstances of cases. Factors to be taken into consideration are; 1) nature of accusations and severity of punishment; 2) reasonable apprehension of tampering with witnesses; 3) reasonable possibility of securing presence of accused, and 4) character, behaviour and standard of accused. Each case has to be considered on its own merits.

20. In the present case, considering the nature of the crime, the Government Money, which is a public money, is involved.

21. 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, reported in (2013)7 SCC 439** 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.

22. The Honourable Apex Court, in the case of **State of Gujarat vs. Mohan Lal Jitamalji Porwal, reported in (1987)2 SCC 364,** held as follows:

"5. ....The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. 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.....”

23. Considering the role of accused Dhananjay and accused Sujit in the crime having involved enormous and huge amount; the conspiracy between accused Dhananjay, accused Sujit and other co-accused, who are officials of the said bank, who failed to discharge their obligations; the investigation revealing the manner in which 442 bank accounts were used, the Government Money was transferred; and the said is at stake, their role is clearly exposed.

24. In this view of the matter, applications deserve to be rejected and the same are **rejected**.

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

!! BrWankhede !!