



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

CRIMINAL APPLICATION (APPLN) NO. 72 OF 2024

Vijay s/o Ramchandra Dayma 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

Mr. A.S. Manohar, counsel for applicant.

Mr. C.A. Lokhande, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 26/07/2024.

1. By this application, the applicant is seeking relaxation of condition imposed by the learned Session Court, Nagpur by order dated 12/06/2024 in Special M.P.I.D. Case No. 14/2019 thereby directing the present applicant to deposit an amount of Rs. 12.84 Crores as pre-condition for grant of bail.

2. It is submitted by learned counsel for the applicant that applicant was arraigned as an accused, in connection with Crime No. 338/2007, registered under Sections 406, 408, 409, 420, 467, 468, 471, 201, 120(B), 109 read with Section 34 of the Indian Penal Code, 1860; Section 65 of the Information Technology Act, and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999. The applicant came to be arrested at Hyderabad on 12/05/2024 and since then he is behind bar. The applicant preferred an application for grant of bail while considering the prayer of bail, the learned Sessions Court released the applicant on bail, on

condition that, he shall deposit at least principal amount of Rs. 12.84 Crores as shown in the reply of the prosecution, and he is released on bail on executing P.R. Bond of Rs. 2,00,000/- along with one or two sureties in the like amount.

3. He submitted that as far as the depositing of the amount is concerned, it cannot be pre-condition to release the present applicant on bail. In support of his contention, he placed reliance in the case of ***Dilip Singh vs State of Madhya Pradesh and another [(2021) 2 SCC 779; and Shane George Dsouza Vs State NCT of Delhi [2023 SCC OnLine SC 1940]***.

4. In the case of ***Dilip Singh*** (supra) in para-4, it is held by the Hon'ble Apex Court as under;

It is well settled by a plethora of decisions of this Court that criminal proceedings are not for realization of disputed dues to grant or refuse the prayer for anticipatory bail, depending on the facts and circumstances of the particular case. The factors to be taken into consideration, while considering an application for bail are the nature of accusation and the severity of the punishment in the case of conviction and the tampering with the witnesses and the nature of the materials relied upon by the prosecution; reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; character behaviour and standing of the accused; and the circumstances which are peculiar or the accused and larger interest of the public or the State and similar other police station. A criminal court, exercising jurisdiction to grant bail/anticipatory bail, is not expected to act as a recovery agent to

realise the dues of the complainant, and that too, without any trial.

5. A similar observations was made by the Hon'ble Apex Court in the case of ***Shane George Dsouza*** (supra) which repeatedly held that the condition of deposit of such amount cannot be a condition of bail. In this case, the appellant had not volunteered to deposit the sum of Rs.10,00,000/-. The direction in the order dated 18/01/2023 is not only of imposing a condition on the appellant of bringing a sum of Rs. 10,00,000/-to the trial Court but a permission has been granted to release the amount to the victim. It is settled law that criminal proceedings cannot be converted into recovery proceedings.

6. He submitted that, thus this condition imposed by the Sessions Court is contrary to the observation of the Hon'ble Apex Court in both the decisions.

7. He further submitted that the appellant is voluntarily ready to deposit an amount of Rs. 50,00,000/- and he be permitted to deposit the same before the learned Sessions Court.

8. Learned APP strongly opposed the said application and submitted that the huge amount of investors is involved and therefore, that condition is imposed. No case is made out for relaxation of the condition.

9. After hearing learned counsel for the applicant and learned APP for the State, perused the impugned order. Apparently, the impugned order appears to be contrary to

the observations of the Hon'ble Apex Court, wherein the Hon'ble Apex Court repeatedly held that a criminal court, exercising jurisdiction to grant bail/anticipatory bail, is not expected to act as a recovery agent to release the dues of the complainant, and that too, without any trial.

10. In view of that, there was no justification for imposing the condition of depositing Rs. 12.84 Crores as a pre-condition. Accordingly, condition imposed by the Sessions Court while releasing the applicant on bail is hereby cancelled. The applicant is permitted to deposit of Rs. 50,00,000/- within eight weeks, as he has made such a voluntary statement to deposit the same.

11. The learned Sessions Judge shall accept the bail surety papers in the meantime.

12. Learned Sessions Court is directed to accept the amount of Rs. 50,00,000/- and released the appellant on bail. The rest of the condition imposed by the Sessions Court shall remain as it is.

The criminal application is disposed of.

[URMILA JOSHI-PHALKE, J.]