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

CRIMINAL APPLICATION (BA) NO.842 OF 2024

(Smt. Vijayalaxmi w/o Ramanrao Bolla 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. Mardikar, Sr. Advocate a/b Mr. M. Anil Kumar, Advocate for the applicant.
Mrs. H.N. Prabhu, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- OCTOBER 22, 2024.

By this application, the applicant is seeking bail as he came to be arrested on 23/01/2024 in connection with Crime No.783/2023 registered with Police Station Mouda, District Nagpur for the offence punishable under Sections 120-B, 406, 409, 411, 413, 420, 467, 468, 471, 201 of the Indian Penal Code and Sections 66(D) of the Information Technology Act, 2000 and Section 3 of the Maharashtra Protection of Interest of Depositors Act, 1999.

2. The crime is registered on the basis of report lodged by one Ramkrushna Manikarao Nimbulkar alleging that he and his friends Vijay Wankhede and Nilkanth Chikhale are farmers. Ramanrao Bolla i.e. the husband of the present applicant owns a warehouse at Gumthala and deals a business in paddy, pulses and other food grains like grams. One Roshan Pande, driver working with co-accused V.S.Wakalpudi, approached the 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, co-accused V.S.Wakalpudi introduced them with co-accused Ramanrao Bolla, who informed complainant Ramkrushna Nimbulkar and other 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 the other food and thereafter, the complainant Ramkrushna Nimbulkar and other farmers received notices from Corporation Bank on 09/04/2018 asking them to repay loan amount. On enquiry by the complainant, it reveals to them that the loans are obtained in their names. In fact, they have not received any loan amount, therefore, he approached to his Advocate 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 met co-accused V.S.Wakalpudi and husband of the present applicant and informed them about notices issued to them. The co-accused V.S.Wakalpudi and the husband of the applicant assured them that whatever loans shown in their names are secured and the same shall be refunded within two years. As co-accused obtained signatures of the complainant Ramkrushna Nimbulkar and other farmers, they approached the police station and lodged the report on the basis of which the crime was registered.

3. Learned Senior Counsel for the applicant submitted that as far as the name of the present applicant in FIR is concerned is not appearing and no allegations are leveled against her. As far as Ramanrao Bolla who is co-accused in the present crime is the husband of the present applicant and he was entertaining all these transactions and some amounts are admittedly transferred in her account as well as in the joint account along with her husband and other relatives. He submitted as regards offences under Sections 467 and 409 of the Indian Penal Code, the said offences are not made out against the present applicant. He further submitted that at the most the role attributed to the present applicant is only to the extent that she has received the amount in her account and no other role is attributed to her. He submitted that considering the allegations against her now she is behind bar from 23/01/2024, though her involvement is in the economic offence, but considering the tripod test the Hon'ble Apex Court in the case of ***P. Chidambaram v. Directorate of Enforcement, [(2020) 13 SCC 791]*** the

applicant is not at a flight risk and in view of that she be released on bail. He also invited my attention towards the account statements and the other documents to show that the whatever amount was allegedly collected from the farmers is already secured, and therefore, no offence is made out against the present applicant. He also submitted that in view of the decision of the Hon'ble Apex Court the offence under Section 405 and 420 of the IPC is not made out. In view of that, the application deserves to be allowed.

4. Learned Additional Public Prosecutor for the State strongly opposed the application and submitted that the applicant has not only received the amount in her name but the statements of the witnesses shows her active participation in the day to day transactions of the company. She is the Partner of Hanuman Dal Industries as well as Tirumala Dal Udyog. She invited my attention towards the account statements as well as the statements of the witnesses and submitted that she was not the sleeping partner but her active participation reveals from the investigation papers. If she is released on bail she would tamper the prosecution evidence and she would deal with the some properties which are not seized. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the investigation papers which shows that the report is lodged on an allegation that the 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. As far as present applicant is concerned who appears to be a Partner in the Hanuman Dal Mill as well as Tirumala Dal Udyog. As far as her participation in the crime is concerned the statement is only to the extent that she was also looking after the day to day affairs of the said Industries. The statements of the farmers which are recorded nowhere reveals that along with the co-accused she was also present and she has also induced them for obtaining the documents. Thus, admittedly there is evidence that she has received the benefits from the said transactions which are committed by the co-accused illegally.

6. As far as further incarceration of the present applicant is concerned, considering her role, at this stage, it is necessary to see the observation of the Hon'ble Apex Court in the case of *P. Chidambaram* (supra) wherein in paragraph No.23 it is held as under:

> *"23. 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 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 be fall 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."*

7. In the case of ***Satender Kumar Antil Versus Central Bureau Of Investigation & Anr. [2022 LiveLaw (SC) 577]***, wherein also, the Hon'ble Apex Court has considered the gravity of the economic offence and it is observed that the gravity of the offence, the object of the Special Act, and the attending circumstances are a few of the factors to be taken note of, along with the period of

sentence. After all, 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.

Thus, the Hon'ble Apex Court 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. Therefore, the presence of the accused in the custody may not be necessary for further investigation.

8. By applying the similar principle in the present case also, the applicant is behind bar since the date of his arrest, i.e. from 23/01/2024 and the trial is not yet commenced. Though the investigation is partly completed but the further investigation is already going on. Charge-sheet is already filed. The role attributed to the present applicant that she is the Partner of two industries as well as some amounts are transferred in her account. Thus, considering all these aspects and the peculiar circumstance in the present case and the role attributed to her and the evidence collected during the investigation, the applicant has made out a case for grant of bail.

Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The applicant - Smt. Vijayalaxmi w/o Ramanrao Bolla in connection with Crime No.783/2023 registered with Police Station Mouda, District Nagpur for the offence punishable under Sections 120-B, 406, 409, 411, 413, 420, 467, 468, 471, 201 of the Indian Penal Code and Sections 66(D) of the Information Technology Act, 2000 and Section 3 of the Maharashtra Protection of Interest of Depositors Act, 1999, be released on bail on executing P.R. bond in the sum of Rs.1,00,000/- with one surety in the like amount.

(iii) The applicant shall attend the Economic Offence Wing, Nagpur Rural twice in a month i.e. 1st and 15th day of every month between 10.00 AM and 1.00 PM and the Investigating Officer shall record her presence.

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

(v) The applicant shall surrender her Passport if she is having, before the Investigating Officer.

(vi) The applicant shall not induce, threat or promise any witnesses in any manner who are acquainted with the facts of the case either personally or by way of electronic media.

(vii) The applicant shall not deal with any properties to stay, mortgage, create any charge over the suit properties movable as well as immovable.

(viii) The applicant shall not deal with the bank accounts which are in the name of the companies.

(ix) The applicant shall attend the proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.

(x) The contravention of any of the condition would lead to the cancellation of bail.

9. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*