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

CRIMINAL APPLICATION (BA) NO.1073 /2024

Shri Tirupatrao s/o Musaliah 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, Senior counsel with Mr. G.S. Gour, counsel with applicant.
Mr. N.B. Jawade, APP for Non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 17/12/2024.

1. The applicant surrendered before the investigating agency on 23/01/2024 in connection with Crime No. 783/2023 registered with Police Station Mouda, Nagpur for the offences punishable under Sections 109, 120B, 409, 413, 420, 467, 468, 471 of the Indian Penal Code, 1860, Section 66D of the Information Technology Act, 2000; and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

2. The accusations against the applicant is on the basis of a report lodged by Ramkrushna Manikrao Nimbulkar alleging that he and his friends Vijay Wankhede and Nilkanth Chikhale are farmers. The co-accused, Ramanrao Bolla, who is the brother of the present applicant, owns a warehouse at Gumthala and deals in 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 them that the Government is implementing a Scheme and granting a compensation to small farmers who suffered losses and are victims of natural calamities. On the basis of the same, the co-accused V.S.Wakalpudi took complainant Ramkrushna Nimbulkar and other farmers to the bank. Their documents, like Aadhar Cards, Photographs, Identity Proofs, were obtained on a pretext of opening a bank accounts for depositing compensation amounts. At the relevant time, co-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 a 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 the loan amount and, therefore, complainant Ramkrushna Nimbulkar visited his advocate to find out why notices were issued to them. He, as well as the other farmers, came to know that the bank advanced a loan in favour of complainant Ramkrushna Nimbulkar and other farmers, and the loan amounts are outstanding against them. Thus, the complainant and the other farmers came to know that by misusing their documents, the accounts were opened in the bank and loans were obtained in their account. Therefore, they met the co-accused, V.S.Wakalpudi and

Ramanrao Bolla, and informed them about notices issued to them. On that note, the co-accused 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 the report, the crime was registered.

3. During the investigation, the involvement of the present applicant is revealed. It also revealed that the amount which was obtained by the co-accused, Ramanrao Bolla, was transferred the same to the account of his other firms looked at by the presented applicant. It further revealed during the investigation that, on 9/4/2018, when the complainant and other agricultural workers received notices for repayment of the loan, they came to know about the said fraud committed by the co-accused. During the investigation it further revealed that the present applicant who was looked after the day-to-day affairs of the various godowns owned by the co-accused Ramanrao Bolla and the present applicant. Moreover, the present applicant is also a partner in Hanuman Dal Mill Industries, have received the amount in the account of the firm Hanuman Dal Mill Industries, and thereafter the said amount has siphoned in various accounts. It was revealed during the investigation that the present applicant is also a part of the conspiracy, and in pursuance of the said

conspiracy, they have siphoned the huge amount which was obtained by defrauding, not only to the complainant and the other farmers, but they have also obtained the loan by showing the goods as mortgaged, and on inspection, the said goods were 50% in the form of the goods and 50% in the form of the crush. Thus, the applicant and the other co-accused not only duped the informant, but also the public money was also misused by them, and therefore, he was arraigned as an accused.

4. Heard learned Senior Counsel Mr. A.S. Mardikar for the applicant, who submitted that the co-accused with the similar allegation is already released on bail by this court. The similar role is played by the present applicant. He submitted that the name of the present applicant in the FIR is not appearing, and no allegations are levelled against him, as far as the co-accused Ramanrao Bolla, who is the brother of the present applicant, and some amount was transferred in his account as well as the joint account in the name of the Hanuman Dal Industries. But within a fraction of a second, those amounts were transferred to the other banks. As far as the present applicant is concerned, he has not received any amount in his individual bank account. Thus, there is no reason for him to know the transactions which entered into by the co-accused, and therefore, his role is similar to the Smt. Vijayalaxmi Ramrao Bolla, who is already released on bail. Therefore, on the ground of parity also, the present applicant deserves to be released on bail.

5. He further submitted that though the involvement of the present applicant is in an economic offence, but it is noted that bail cannot be granted in an economic offence, it depends upon the case to case, and therefore, the personal liberty of the present applicant cannot be curtailed if the tripod test is applied, which is laid down by the Hon'ble Apex Court in the case of ***P. Chidambaram v. Directorate of Enforcement, [(2020) 13 SCC 791],*** the applicant has made out a case for grant of bail. In view of that, application deserves to be allowed.

6. Learned APP strongly opposed the said application and submitted that the applicant is the brother of the other co-accused and his proprietor of the Hanuman Dal Mill Industries Private Limited. He has received an amount of Rs. 18.90 crores in which the account of Hanuman Dal Mill Industries and Shri Laxmi Amma Murmura Industries, where he is one of the partners. From the analysis of the account, it can further be seen that an amount of Rs. 9,49,00,000/-, half of the amount, was used by the present applicant for his own benefit, whereas the other half of the amount was diverted into various accounts. The co-accused Ramanrao Bolla is the real brother of the present applicant, with whom the applicant is either the director or the partner in the account of the company, where the proceeds of the crimes are initially received from the account of the various farmers, which is thereafter diverted and misappropriated.

7. The amount of Rs. 1,08,66,230/- was received in the account of one Sinhu Bolla of Lata Rice Industries, and said amount was transferred to the account of the son of the present applicant, Shishidri Bolla. The applicant had also received an amount of Rs. 2,45,94,500/- in the account of Hanuman Dal Industries Ltd. Out of which, he has used half of the amount and diverted the other half of the amount. Thus, the total amount of misappropriation committed by the present applicant. Thus, the investigation papers reveal the role of the present applicant in the alleged crime. In view of that, the application deserves to be rejected.

8. After hearing the submissions of both parties and on perusal of the investigation papers, which are placed on record, which shows that the applicant is the brother of the co-accused Ramanrao Bolla, who is the proprietor, along with the co-accused of Hanuman Dal Industries. The statements of the various agriculturists and the complainant revealed that their signatures were obtained on the pretext of opening bank accounts for getting compensation under the government scheme. However, the said signatures are obtained on blank papers which are used for obtaining the loans in the various agriculturalist. The statements of accounts and charts placed on record by learned APP for the State show that the amount of Rs. 49,94,058/- is transferred from the bank account of one Nagmani Vakaludi, who is the co-accused, to the account of the other co-accused on 31/03/2017.

Similarly, some amounts are transferred to the account of Hanuman Rice Industries, of which the applicant is a proprietor, on 27/02/2017. The amount of Rs. 30,81,043/- was again transferred on 27/02/2017 through NEFT to the bank account of applicant No. 1, and the amount of Rs. 49,89,029/- was transferred from the account of Jagdish Laxman Gajbhiye, and the amount of Rs. 47,98,608/- was transferred from the account of Sukhdev Laxman Gajbhiye. Thus, there are several transactions entered in the bank accounts of the present applicant and the other co-accused.

9. The report of the fraud monitoring cell collected by the investigating officer shows that loans were sanctioned against produce stored in godowns of co-accused Ramanrao Bolla. The loan proceeds of Rs.104.21 crores were remitted to accounts of firms pertaining to co-accused Ramanrao Bolla and the present applicant and other family members. The statements of various witnesses, especially farmers, show the involvement of co-accused in the alleged offence. The notices under Sections 91 of the Code of Criminal Procedure and 41A are already issued to applicants. The statement of Gauri Patankar, who is the bank employee, also reveals in what manner the bank was duped, as the loans were obtained by showing the goods and mortgaging the said goods, but subsequently during inspection it reveals that 50% of the goods were in the crush from. Thus, not only the farmers but also the

public money was also duped by the present applicant and other co-accused.

10. Learned APP for the State submitted that considering the huge magnitude of the amounts involved and this is not a fit case wherein discretion can be used. Admittedly, the public money was utilized by the co-accused for illegal purposes. The loans are not only obtained in the names of the farmers, but also the amounts are transferred to the various firms of the applicant, and the said money was siphoned. The loans were also obtained by showing the goods, and subsequently the goods were disposed of and the crush was found in the go-downs. Considering the nature of the crime and considering the nature of the evidence in the economic offence of a huge magnitude is involved where public money is concerned.

11. Learned counsel for the applicant vehemently submitted that merely because the involvement of the applicant is in the economic offence is not sufficient to curtail the liberty. He has referred the decision of the Hon'ble Apex Court in the case of ***P. Chidambaram*** referred (supra), wherein it is held that the applicant is not at flight risk in the view of that, he be released on bail. He also referred judgment of the Hon'ble Apex Court in the case of ***Satender Kumar Antil Vs. Central Bureau of Investigation and another [(2022) LiveLasw SC 577],*** it is necessary to see the observations of the Hon'ble Apex Court in the case

of ***P. Chidambaram*** referred (supra), wherein in para-23 it is held that;

> *"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 as 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 befall 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."*

12. In the case of ***Satender Kumar Antil*** referred (supra), 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.

13. By applying these principles to the present case, here the various farmers are duped by obtaining the signatures on the pretext of opening the loan accounts, and the amount which was taken in the nature of a loan in their names was siphoned by the co-accused, and the present applicant was also involved in the same, as he is also one of the beneficiaries of the said amount. Thus, the involvement of the present applicant reveals not only from the various statements of the witness but also from the account statement.

14. Learned APP rightly placed reliance on the decision of the Hon'ble Apex Court in the case of ***Y.S.***

Jagan Mohan Reddy vs. CBI, reported in (2013)7 SCC 439 wherein following parameters are laid down:

> 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
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> 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.

15. Moreover, similar observations are observed in the cases of ***Virupakshappa Gouda and another Vs State of Karnataka and another [2017 ALL SCR (Cri) 843] and Narinderjit Singh Sahni and anr. Vs. Union of India, [2002 ALL MR (Cri) 430 (SC)].***

16. Thus, it is a consistent view that socio-economic offences have deep-rooted conspiracies affecting the moral fiber 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 trial.

17. 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 **rejected and disposed of.**

[**URMILA JOSHI-PHALKE, J.]**