



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

CRIMINAL APPLICATION (BA) NO. 264 OF 2025

Anil s/o Ramnarayan Jaiswal and another 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. Anil Mardikar, Senior Counsel h/f Mr. Kunal M. Pande, counsel for applicants.

Mr. M.K.Pathan, APP for non-applicant/State.

Mr. Harshwardhan Chawhan, counsel for Intervenor.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 01/04/2025.

1. The applicant Nos. 1 and 2 are the husband and wife and arraigned as an accused in connection with Crime No. 745/2024 registered at Police Station Digras District Yavatmal for the offences punishable under Sections 406, 409, 420, 120-B read with Section 34 of the Indian Penal Code, 1860 and Section 3 of the Maharashtra Protection of Interest of Depositors Act, 1999.

2. The crime is registered on the basis of a report lodged by complainant Rajiya Bano Abdul Rafique on an allegation that a bank, namely Jansangharsh Urban Nidhi Limited Digras, established by one Pranit More, who was offering the high interest on the fixed deposit, therefore, she approached the said bank, and she came to know that the said bank is providing interest @ 12% on the fixed deposit. It also came to the knowledge that on a fixed deposit of Rs. 5,00,000/-, the depositors will get one gram of a gold coin, and on depositing the Rs. 1,00,000/-

the depositors will get 10 grams of a silver coin. Looking towards the attractive scheme, she has invested the amount, and thereafter, she has not received the amount back, but it revealed to her that the said bank has played a fraud of Rs. 44 Crores on their customers, including the complainant. In all, 6000 investors were allegedly duped by the present applicant. On the basis of the said report, the crime was registered.

3. Now, this application is filed by the applicants on the ground that applicant No.1 is suffering from the kidney ailment and it was suggested for the transplant of the kidney, and applicant No. 2 donated the kidney to him. The medical certificate issued by *Suretech Hospital and Research Centre Limited, Dhantoli, Nagpur*, shows that applicant no. 1 is having chronic kidney disease with hypertension and is undergoing treatment. For the last two years, he has been advised to have a Renal transplant at the earliest. His wife, Pushpa Anil Jaiswal, is the Donor for his kidney transplant. The approximate duration of the kidney transplant, right from the surgery till the recovery, will be approximately around one year for the postoperative precaution also. Thus, the application is filed on the ground that he is to be released on bail for transplant of the kidney, and if he is not released on bail, his health would be deteriorated. If he is behind bar without transplanting the said kidney, there is a likelihood of his death.

4. The learned Senior Counsel Mr. Anil Mardikar submitted that only on medical grounds, the present application is preferred by the applicant for temporary bail. Considering the medical certificate and the urgent need for the transplant of the kidney, he be released on bail.

5. The learned APP and learned counsel for the complainant strongly opposed the same on the ground that in all 6000 investors were duped, and huge stake of money is involved, i.e. around 44 Cores. If the applicant accused is released on bail, he would deal with properties, and nothing would remain in the hands of the investors to recover the amount. Thus, considering the role attributed to the present applicants, the application deserves to be rejected.

6. After hearing both sides and on perusal of the investigation papers, as far as the role of the present applicants is concerned, it reveals from the investigation papers. The application is filed mainly on the ground of medical treatment, i.e. transplantation of the kidney. Therefore, the report from the Superintendent of District Prison, Yavatmal, was called. As per his report, the applicant No. 1, was referred to the Committee, which is constituted under the provisions of the Transplantation of Human Organs and Tissues Act, 1994, and as per the report and meeting held and statements of the witnesses recorded, it revealed that there is an urgent need for a kidney transplant for the applicant No.1, and applicant

No.2 is donating him kidney, their relationship is husband and wife. Thus, the reports and the entire medical papers are already forwarded to the *Kovai Medical Centre and Hospital at Coimbatore*.

The Form No. 14 is also placed on record along with the said report, which shows that a meeting was held as to the kidney transplant by the committee, i.e., constituted under the Transplantation of Human Organs and Tissues Act, 1994. As per the provisions of the Transplantation of Human Organs Act, 1994, the identification forms are obtained, and thereafter, in the meeting, several statements were recorded, and thereafter, the permission was granted to the applicant No. 2 for donating the said organ. The relevant tests were also carried out.

7. Thus, considering the reasons mentioned in the report as well as the medical certificate, it reveals that an urgent kidney transplant is required by the applicant No. 1, and applicant No.2 is donating the same. As far as the period of temporary bail is concerned, as per the medical certificate, he requires a one and half years period of treatment, i.e. preoperative and postoperative, but considering the role attributed to the present applicant, at this stage, the period of six months for the temporary bail can be considered by imposing certain conditions. In view of that, I proceed to pass the following orders;

a] The criminal application is allowed.

- b] The applicant No. 1 *Anil s/o Ramnarayan Jaiswal* and No. 2 *Pushpa w/o Anil Jaiswal* shall be released on temporary bail on medical ground for the period of six months, which commencing from the date of actual release. The period of bail will commence from 04/04/2025 till 04/10/2025 on executing PR. bond of Rs. 1,00,000/- each with one solvent surety in the like amount.
- c] The applicants shall furnish their detailed address where they are taking treatment and their stay also during that period along with the address proof.
- d] The applicants shall also furnish their cellphone numbers and the names of the two relatives along with their cellphone numbers.
- e] The applicant Nos. 1 and 2, shall surrender before the Superintendent of District Prison, Yavatmal, on 05/10/2025.
- f] The hospital, i.e. *Kovai Medical Centre and Hospital, Coimbatore*, shall furnish their periodical reports as to the improvement in the health before the District Court, i.e. Special Court under the Maharashtra Protection of Interest of Depositors Act, 1999.

- g] The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts either by themselves or through anybody either physically or through electronic media.
 - h] The applicants shall not deal with the properties which are in their names or in the names of their relatives (son, daughter, etc.) by any means, either by gift, sale, mortgage, or in any other mode of transfer.
8. The criminal application is **disposed of** with directions.

[URMILA JOSHI-PHALKE, J.]