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

CRIMINAL APPLICATION (ABA) NO.188 OF 2025

Nikhilkumar s/o Narendra Singh Kosale and others
Vs.
State of Maharashtra, through Police Station Amgaon, District Gondia

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

Mr. V. S. Mishra, Counsel for the applicants.
Ms. M. A. Barabde, APP for non-applicant/State.
Mr. I. K. Daudasare, Counsel for the intervenor.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 23/04/2025

CRIMINAL APPLICATION (APPP) NO.815 OF 2025

1. The application is for grant of permission to intervene in the matter.

2. The original complainant has filed this application to object the bail application on the ground that he has to point out the material aspect before this Court.

3. In view of the reasons mentioned in the application, the intervention application is allowed.

4. The application is disposed of.

5. The reply filed by the intervenor is taken on record.

CRIMINAL APPLICATION (ABA) NO.188 OF 2025

1. Apprehending the arrest at the hands of police in connection with Crime No.485/2024 registered with Police Station Amgaon, District Gondia for the offence punishable under Sections 420, 423, 464, 471 read with Section 34 of the Indian Penal Code and under Sections 66(c) and 66(d) of the Information Technology Act, the applicant approached this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of report lodged by Sagar Bagde alleging that the present applicants along with the other co-accused falsely promised the complainant that they would issue him a credit card and also provide a loan as per the scheme circulated by them vide pamphlet distributed in the society. The applicants induced the complainant and the other borrowers to deposit their relevant documents namely Aadhar Card, PAN Card, Bank Passbook, Customer's Mobile, ATM Cards, Cheque Book, E-mail ID etc. Upon obtaining such documents from customers, it was impressed upon the customers that the credit card would be issued in their name. After obtaining the said documents, the

forged ITRs were also prepared by the present applicants and the loans were obtained and that amount was siphoned by them by transferring the same in their accounts. On the basis of the said report, police have registered the crime against the present applicants.

3. Heard learned Counsel for the applicant, who submitted that initially the crime No.436/2023 was registered against the present applicants, wherein they were arrested and necessary investigation is already carried out. As far as the custodial interrogation of the present applicants is concerned, which is not required, as the entire investigation considering the allegation by the present complainant is also carried out. The applicants have already cooperated during the investigation, and therefore, the custodial interrogation of the present applicants is not required and they be protected by granting anticipatory bail.

4. Learned APP strongly opposed for the same and submitted that the transaction between the present applicants and the complainant is of a different period. The custodial interrogation which is one of the considerations is required for the purpose of ascertain the *modus operandi* adopted by the present applicants and to complete the investigation. The custodial interrogation is also required for recovery of the huge amount which is

misappropriated by the applicants by obtaining the amount from the complainant and other four witnesses. The custodial interrogation is further required to find out the involvement of any of the persons in the above said crime, and therefore, the application deserves to be rejected.

5. After hearing both sides and on perusal of the investigation papers it reveals that the present applicants have obtained the documents like Aadhar Card, PAN Card and forged documents in the name of the complainant as well as other persons. It also reveals from the investigation papers that forged ITRs are prepared by the present applicants in the name of the complainant like ITR, other documents are also prepared by forging the same, and therefore the custodial interrogation of the present applicants is required. Though learned Counsel for the applicant submitted that the investigation was carried out in Crime No.436/2023. I have perused the investigation of Crime No.436/2023. Admittedly, during the investigation, some documents were collected and seized by the investigating agency, however, as far as the allegations against the present applicants are concerned, some investigation needs to be carried out as to the recovery of the amount as well as the allegations levelled by the complainant against the present applicants. It further reveals that the forged ITRs were also prepared by the present applicants in the name of the complainant and the investigation to

that effect is also required, therefore considering the involvement of the present applicants in the economic offence, which is committed after due deliberations, therefore, the application deserves to be rejected. In view of the observation of the Hon'ble Apex Court 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*
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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.*

6. The *prima facie* case is made out against the present applicants and therefore, the application is hereby rejected.

(URMILA JOSHI-PHALKE, J.)

Sarkate