



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

CRIMINAL APPLICATION (APPLN) NO. 38 OF 2025

Mukund Ghanshyam Maheshwari @ Daga 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. D.N.Mehta, counsel for applicant.

Ms. Swati Kolhe, APP for non-applicant/Stae.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 16/04/2025.

1. By this application, the applicant is seeking modification of the condition, which is imposed by the Additional Sessions Judge while releasing the applicant on bail.

2. The applicant was arraigned as an accused in Crime No. 619/2024 registered at Sewagram Police Station under Sections 409, 420, 468, 469, 471, 506 read with Section 34 of the Indian Penal Code, 1860, along with Sections 103 and 104 of the Trade Marks Act, 1999.

3. As per the case of the prosecution, the complainant is a maternal uncle of the applicant, who is running the company by name Microplex India, and a new branch was opened at Hyderabad, and the affairs of the company of new branch were assigned to the applicant. The company is dealing mainly in business of

chemical fertilizers and insecticides and used to provide the material all over the State. While running the said company, the applicant allegedly committed misappropriation of the amount of more than Rs.3 Crore. On the basis of the First Information Report, the crime was registered against the present applicant.

4. Moreover, the applicant has approached the Sessions Court for grant of bail under Section 439 of the Code of Criminal Procedure. While discussing the investigation material, the Sessions Judge has considered that, from the charge-sheet, the investigating officer has seized various documents, such as the form wherein the applicant has referred to himself as a proprietor, and also the cheques signed by the accused no.2. The various statements are also considered by the Court and comes to the conclusion that the involvement of the present applicant was revealed in the alleged incident, but it is also observed that further incarceration of the present applicant is not required, and therefore, he is released on bail. Furthermore, while releasing the applicant on bail, the trial Court directed that he shall furnish personal bond of Rs. 5,00,000/- with two solvent sureties of like amount, out of which one shall be from Wardha District in Crime No. 619/21021 for the offence punishable under Sections 409,420, 468, 469, 506 of IPC and Sections 103, 104 of the Trademarks Act.

5. Being aggrieved and dissatisfied with the same, the present application is filed on the ground that applicant is a permanent resident of Hyderabad, there is nobody in Wardha District, and therefore, it is highly impossible for him to furnish the local surety. Another ground raised by the applicant is that the exorbitant order is passed by directing the present applicant to furnish a personal bond of Rs. 5,00,000/-, which is also impossible for the applicant to furnish. It is further contended that, without assigning any reason, such exorbitant order is passed. In view of that, the order passed by the learned Additional Sessions Judge be modified, and with appropriate conditions, the applicant be released on bail.

6. The learned APP strongly opposed the same and submitted that the applicant is a resident of Hyderabad, if he is released on bail without imposing such condition, it would be difficult to secure his presence before the Court. In view of that, the application deserves to be rejected.

7. On hearing both sides and on perusal of the impugned order, it reveals that the applicant is involved in Crime No. 619/2021 registered under Sections 409, 420, 468, 469, 506 of the IPC and Sections 103, 104 of the Trademarks Act. From the impugned order, it reveals that the investigation paper shows that various documents were seized from the complainant. The

charge-sheet further consists of the balance sheet of Microplex India, Telangana, and notices issued by the Police Station, Sewagram to Police Station Muradabad, the statement of witnesses, bank documents of Karnataka Bank, Bank Account statements, and Board Resolutions, which show the involvement of the present applicant in the alleged offence. The Sessions Court further recorded that the complainant and the accused No.1 i.e. the present applicant, are close relatives. The complainant has assigned the affairs of Hyderabad to the present applicant, and thereafter, he has misappropriated the amount of Rs. 3 Crore. As far as the condition imposed is concerned, that applicant shall be released on bail on furnishing a personal bond of Rs.5,00,000/-. Admittedly, no reason is assigned by the Sessions Court.

8. The learned counsel for the applicant placed reliance on the decision of the Apex Court in the case of ***Girish Gandhi Vs State of Uttar Pradesh and others [(2024) 10 SCC 674]***, wherein the Hon'ble Apex Court held that to grant bail and thereafter to impose excessive and onerous conditions, held, is to take away with the left hand, what is given with the right. However, what is excessive, held, will depend on the facts and circumstances of each case. Further held, imposing a condition which is impossible of a compliance would be defeating the very object of release on bail.

9. He further submitted that, considering the position in the present case, the applicant is a permanent resident of Hyderabad, he is ready to attend the concerned police station at Hyderabad and co-operating the investigating agency, and he is also ready to attend the proceedings before the trial Court. In view of that, the condition imposed be modified. Considering the impugned order, wherein no specific reasons assigned why the said condition i.e. personal bond of Rs. 5,00,000/- is imposed by the Sessions Judge.

10. Moreover, as observed by the Hon'ble Apex Court to grant bail and thereafter to impose excessive and onerous conditions would defeat the very object of release on bail, and therefore, the said conditions imposed while releasing the applicant on bail appear to be exorbitant and excessive one and defeating the very object of releasing the applicant on bail. However, at the same time, it is necessary to issue an order that the applicant shall attend the proceedings before the Court, and his presence is to be secured before the trial Court, otherwise, the trial would held up. In view of that, the condition requires to be modified by imposing certain conditions. Accordingly, I proceed to pass the following order.

a] The criminal application is allowed.

b] The condition imposed that the applicant
Mukund s/o Ghanshamdas Maheshwari @

Daga be released on bail on furnishing personal bond of Rs. 5,00,000/- with two solvent sureties of like amount, out of which one shall be from Wardha District in Crime No. 619/2021 for the offence punishable under Sections 409, 420, 468, 469, 506 of the Indian Penal Code and Section 103 and 104 of the Trademarks Act, is modified to the extent that he shall be released on bail on furnishing personal bond of Rs. 2,00,000/- with two solvent sureties from like amount from the Hyderabad District itself in respect of Crime No. 619/2021 for the offence punishable under Sections 409, 420, 468, 469, 506 of the Indian Penal Code and Sections 103 and 104 of the Trademarks Act.

- c] The applicant shall attend *Panjagutta Police Station, Hyderabad* twice in a month on 1st and 15th of every month and the police station officer shall record his presence.
- d] The applicant shall attend the proceedings before the trial Court without seeking any exemption unless there are exceptional circumstances.

- e] The applicant is at liberty in exceptional cases to seek permission from the trial Court to appear through video conferencing.
 - f] The two consecutive absence of the applicant before the trial Court would lead to the cancellation of bail.
11. The application is disposed of.

[URMILA JOSHI-PHALKE, J.]