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

CRIMINAL APPLICATION (ABA) NO.186 OF 2025

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

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

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Mr. V. S. Mishra, Counsel for the applicant.
Mr. M. K. Pathan, 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. 813 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.186 OF 2025

1. Apprehending the arrest at the hands of police in connection with Crime No.484/2024 dated 12.10.2024 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 (under Sections 318(4), 322, 335, 340(2) and 3(5) of Bharatiya Nyaya Sanhita, 2023) and under Sections 66(c) and 66(d) of the Information Technology Act.

2. As per the allegation on the basis of the report filed by the Vijay Kore alleging that accused Nos.1 to 7 have 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. As per the said pamphlet, the applicants induced the complainant and the other borrowers to deposit their relevant documents namely Aadhar Card, PAN Card, Bank Passbook, Customer's Mobile, Business documents, Cheque Book, E-mail ID and upon obtaining such documents from customers the credit card was issued in the name of the complainant. After the same was received by post to the applicants

and the credit card was never received by the complainant. It was further alleged by the complainant that the present applicants allegedly revised Income tax Returns by falsely making an entry that income of the complainant was Rs.94,00,000/-. The complainant had also informed that the applicants have hacked the complainant's E-mail account without the consent of the complainant and the applicants have applied for a security loan and credit card from the bank, transferring the entire amount to the account of accused/applicants. Thus, the complainant has given details of the events, thereby an offence of cheating and forgery are made out against the applicants. On the basis of the same, the police have registered the crime against the present applicants.

3. Heard learned Counsel for the applicants who submitted that as far as the present crime is concerned, initially the Crime No.436/2023 was registered against the applicants wherein the statement of the present informant was recorded. The entire investigation as to the allegation of the present complainant is already carried out. The applicants were arrested in the said crime and subsequently they were released on bail. As far as the present crime is concerned, the complainant has filed the application under Section 156(3) of Cr.P.C. and the learned Magistrate without considering the same, as this fact is not brought to the notice of the

learned Magistrate passed an order of registration of the crime, and therefore, the present crime is registered. He submitted that the entire investigation is already carried out as to the allegation made by the complainant therefore, their custodial interrogation is not required. In view of that, they be released on bail in the event of arrest.

4. Learned APP and learned Counsel for the complainant strongly opposed for the same and submitted that as far as the present crime is concerned, the period of commission of the crime is entirely different. The perusal of the statement of the complainant dated 16.10.2024 would merely show that the complainant was introduced to NLIT Finance Company. It was informed through the pamphlet that the company makes available home loan, personal loan, credit cards etc., if the complainant required any loan, and after obtaining the said documents, the amount was obtained by way of loan and the complainant was duped., therefore, the custodial interrogation of the present applicants is required. The involvement of the present applicants in the economic offence. In view of that, the application deserves to be rejected. It is further submitted that not only the complainant, the several persons came forward during the investigation and the present applicants similarly duped the other persons. It is fairly submitted by the learned APP that as far as the applicant No.4 Sangita

Kosale is concerned, the only allegation against her is that some amount is transferred in her account, except that there is no other allegations levelled against her.

5. After hearing both the sides and on perusal of the investigation papers, it reveals that the involvement of the present applicants is in the economic offence. The *modus operandi* of the present applicants appears to be that they have advertised their finance company and obtained the documents like Aadhar Card, PAN Card, Bank Passbook, their mobile numbers and business documents, cheque book, e-mail ID and on upon obtaining such documents from the customers, they also promised that credit card would be issued to them, but in fact, the persons who already handed over the documents have not received any credit card. On the contrary, it revealed that forged documents are prepared in their names, the amounts are obtained by obtaining the loan in their names and thereby they are duped. The documents on record sufficiently shows the involvement of the present applicants in the alleged offence. The custodial interrogation is one of the reason however, considering the involvement of the present applicants in the economic offence, the investigation as to the mode of committing the offence is also a matter of investigation. Merely because the custodial interrogation is not required, is not sufficient to consider the bail application of the

present applicants. However, considering that the only role attributed to the applicant No.4 Sangita Kosale is that some amount was transferred in her account, her prayer grant of anticipatory bail can be considered. As far as the other applicants Nos.1 to 3 are concerned, their involvement is in the economic offence. The offence is committed after giving a thoughtful consideration for the manner in which it can be committed, thereafter the various citizens were induced for handing over the documents, the said documents are obtained, loans are obtained in their names, forged documents are prepared and various persons are duped with the help of the technology, and therefore, the interrogation on this aspect is utmost important to ascertain the involvement of the present applicants in the forgery also. Admittedly, the earlier crime was registered, and some investigation was carried out, but as far as the allegation in the present crime is concerned, the period of the crime is also different and the *modus operandi* of the present applicants to commit the said crime is also requires to be ascertained.

6. 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*

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.

7 In view of the observation of the Hon'ble Apex Court in the above said judgment and the involvement of the present applicant Nos.1 to 3 in economic offence, the applicants have not made out a case for grant of anticipatory bail by using discretion in their favour. In view of that, the prayer of the applicant Nos.1 to 3 for grant of anticipatory bail deserves to be rejected. As far as the prayer of the applicant No.4 for grant of anticipatory bail deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(i) The application is partly allowed.

(ii) In the event of her arrest in connection with Crime No.484/2024 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 (under Sections 318(4), 322, 335, 340(2) and 3(5) of Bharatiya Nyaya Sanhita, 2023) and under Sections 66(c) and 66(d) of the Information Technology Act, the applicant **No.4 Sangita Singh w/o Narendra Singh Kosale** shall be released on anticipatory bail, on executing PR Bond of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant No.4 shall attend the concerned Police Station as and when required for the investigation purpose after issuing the notice in advance of seven days to the applicant No.4 Sangita.

(iv) The applicant No.4 shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(v) The applicant No.4 shall surrender her passport, if she is having before the investigating agency.

(vi) The applicant No.4 shall not leave the India without prior permission of this Court.

(vii) The prayer of the applicant Nos.1 to 3 for grant of anticipatory bail is hereby rejected.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate