



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

CRIMINAL APPLICATION (BA) NO.861 OF 2024

Nitesh s/o Pramod Yesankar

Vs.

State of Maharashtra, through Police Station Officer, Police Station,
Wardha City, District Wardha

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

Court's or Judge's orders

Mr. R. M. Daga, Counsel for the applicant.

Ms. M. A. Barabde, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 21/03/2025

1. This is an application filed under Section 483 of the Bharatiya Nyaya Sanhita, 2023 for grant of bail in connection with Crime No.316/2024 registered with Police Station Wardha (City), District Wardha for the offence punishable under Sections 406, 408, 409, 420, 465, 467, 468 and 471 read with Section 34 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by Nayab Tahsildar Mr. Dhananjay Vishnu Wagh on an allegation that the applicant is the civilian and by joining hands with the Deputy Collector, Land Acquisition Wardha since 17.01.2022 brought the fake persons for the compensation amount and that amount was transferred to his account and thus, he has obtained the pecuniary gain

with the help of other co-accused. On the basis of the said report, police have registered the crime against the present applicant.

3. Heard learned Counsel for the applicant, who submitted that the present applicant is not a government servant i.e. co-accused, who was having access to all the information. As far as the role attributed to the present applicant is concerned, he brought some persons as a fake person and he received the pecuniary gain. The amount which is transferred to his account is already frozen. Thus, as far as the present applicant is concerned, no loss is caused to the government, and therefore, the further incarceration of the present applicant is not required. In view of that, the application deserves to be allowed and the applicant be released on bail.

4. Learned APP strongly opposed the said application and submitted that the co-accused was arrested on 08.03.2024 from Hingoli. Her mobile itself is seized in which it was found that she along with the present applicant opened the account in the name of the farmers and the said fake accounts were opened and the fake persons were brought by the present applicants. Admittedly, the present applicant is not a government servant, but the fake transactions are made in the name of the said persons, who are brought by the present applicant. The present applicant has also received a pecuniary

gain out of the said transactions, and the government exchequer are duped for the huge amount with the help of the government servant. Thus, considering the *prima facie* case against the present applicant, the application deserves to be rejected.

5. On hearing both sides and on perusal of the investigation papers from which it reveals that the co-accused, who was serving as a Land Acquisition Officer, as well as the Deputy Collector Minor Irrigation Canal, Wardha, the duty assigned to her was to pass the land acquisition awards and disbursed the compensation amount as per the procedure to the land owners, whose lands are acquired. As the co-accused was interested with the duty of passing orders regarding disbursement of the amount of compensation already granted by way of land acquisition awards, she with the help of the present applicant in the name of the fake persons, the fake accounts were opened and the amounts were transferred in their name, and thereafter the said amounts were also transferred in the account of the present applicant.

6. Besides the statements of the witnesses, there is WhatsApp communication which shows the involvement of the present applicant with the alleged offence. From the mobile verification panchanama, it reveals that she has saved the number of the present applicant. The mobile phone of the present applicant

was also seized. It further revealed on verification of the said mobile phone that there was communication between the present applicant and the other co-accused as well as WhatsApp chat as to exchange of media files between them. The transcript of the communication between both of them shows that they were searching the persons, who were not alive and the assistance with the present applicant, the list was prepared and the accounts were opened in their names. Thus, as far as the allegations levelled against the present applicant is concerned, which shows that with the help of the government officials, they have caused the loss to the government and disbursed the amount in the name of fake persons and obtained the pecuniary gain. Thus, the involvement of the present applicant revealed from the investigation in the alleged offence.

7. It is well settled that jurisdiction to grant bail has to be exercised having regard to the facts and circumstances of each case. The factors to be taken into consideration are the nature of accusations, reasonable apprehension of tampering witnesses, reasonable possibility of securing presence of accused etc. and each has to be considered on its merits.

8. The involvement of the present applicant reveals in the economic offence. The applicant along with the government officials has caused the loss to

the government. In view of the Judgment of the Hon'ble Apex Court in the case of **Y. S. Jagan Mohan Reddy VS CBI** reported in **(2013) 7 SCC 439** which laid down the 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.

(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 interests of the public/State and other similar considerations.

9. In the case of **State of Gujarat Vs. Mohan Lal Jitamalji Porwal** reported in **(1987) 2 SCC 364** wherein also the Hon'ble Apex Court held "5.....The entire Community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed

with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the Community. A disregard for the interest of the Community can be manifested only at the cost of forfeiting the trust and faith of the Community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest.....”

10. Considering the role of the applicant, who received the economic gain or pecuniary gain in his account, and the vital role played by him, the *prima facie* case is made out against him. In view of that, the application deserves to be rejected. Accordingly, the application is rejected.

(URMILA JOSHI-PHALKE, J.)