



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.1143 OF 2024
(Nemaram s/o Lalaram Saran 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. S.V. Sirpurkar, Advocate for the applicant.
Mrs. R.V. Sharma, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MARCH 18, 2025.

By this application, the applicant is seeking bail as he came to be arrested on 03/08/2023 in connection with Crime No.514/2023 registered with Police Station Lakadganj, Nagpur, District Nagpur for the offences punishable under Sections 397, 120-B read with Section 34 of the Indian Penal Code.

2. The accusation is made against the present applicant and other co-accused that the present applicant who is one of the Conspirator, as well as involved in an offence of committing robbery. The FIR is lodged at the behest of the co-accused Pradip Hemraj Saraswat alleging that on 01.08.2023 he has collected the cash of Rs.34,50,000/- from Sonu Anmol, and thereafter the Manager Anil and other person Virambhai were asked to keep this cash at Buthada chamber in locker. The co-accused asked Pralhad and Uttam to bring their cash at Sonu Anmol's shop and all of them together separated the cash in three different bags. The total cash was Rs.1 Crore

15 Lakhs. Thereafter, the bag was kept in the dicky of the white Activa and other two bags on the front portion of the two wheeler. It is alleged that while they proceeding towards the Bhutada chamber, two people restrained them and snatched the key of the vehicle and also snatched the said amount and fled away from the spot of incident. As far as present applicant is concerned it is alleged that present applicant was involved in snatching the cash amount. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that with the similar allegations the other co-accused are already released on bail. Thus, ground of parity is available to the present applicant. He further submitted that the TI parade is held after one month of the incident. Moreover, the grounds of arrest are not intimated to the present applicant. Thus, there is contravention of Article 22(1) of the Constitution of India. For all above these grounds, the applicant be released on bail.

4. Learned APP strongly opposed the application on the ground that during investigation, the involvement of the present applicant revealed as he was seen in a CCTV footage as well as he was identified during the identification parade. She further submitted that the grounds of arrest are already intimated to the present applicant and station diary entry is taken to that effect. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the sides. Perused the investigation papers from which it reveals that the CCTV footage panchnama and the identification parade panchnama shows the involvement of the present applicant and he is identified during the identification parade. Thus, as far as the involvement of the present applicant is concerned there is sufficient material to connect him with the alleged offence. As far as the grounds of arrest are concerned, learned APP has placed on record general diary entry, it only states that the grounds of arrest were intimated to the present applicant and the guidelines issued by the Hon'ble Apex Court are complied with. However, as far as the grounds of arrest are concerned there is nothing in the charge-sheet to show that the grounds of arrest are communicated to the present applicant. For that purpose the observation of the Hon'ble Apex court in the case of ***Vihaan Kumar Vs. State of Haryana and anr. [2025 SCC OnLine SC 269]*** are relevant. In para No.13 of the said judgment it is observed as under :

“13. xxxxxx as far as Article 22(1) is concerned, compliance can be made by communicating sufficient knowledge of the basic facts constituting the grounds of arrest to the person arrested. The grounds should be effectively and fully communicated to the arrestee in the manner in which he will fully understand the same. Therefore, it follows that the grounds of arrest must be informed in a language which the arrestee understands. That is how, in the case of Pankaj Bansal Vs. Union of

India, this Court held that the mode of conveying the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. However, under Article 22(1), there is no requirement of communicating the grounds of arrest in writing. Article 22(1) also incorporates the right of every person arrested to consult an advocate of his choice and the right to be defended by an advocate. If the grounds of arrest are not communicated to the arrestee, as soon as may be, he will not be able to effectively exercise the right to consult an advocate. This requirement incorporated in Article 22(1) also ensures that the grounds for arresting the person without a warrant exist. Once a person is arrested, his right to liberty under Article 21 is curtailed. When such an important fundamental right is curtailed, it is necessary that the person concerned must understand on what grounds he has been arrested. That is why the mode of conveying information of the grounds must be meaningful so as to serve the objects stated above.”

6. In view of the observation of the Hon'ble Apex Court, here this compliance appears to be absent. In view of that, the applicant has made out a case for grant of bail. Accordingly, I proceed to pass following order:

- (i) The application is allowed.
- (ii) The applicant - Nemaram s/o Lalaram Saran in connection with Crime No.514/2023 registered with Police Station Lakadganj, Nagpur, District Nagpur for the offences punishable under Sections 397, 120-B read

with Section 34 of the Indian Penal Code, be released on bail, on executing PR. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned police station once in a month i.e. 5th day of every month and the Police Officer shall record his presence and the applicant shall cooperate with the investigating agency.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.

(v) The applicant shall furnish his detailed address with address proof, names of his two relatives, their address with address proof, before the investigating agency.

7. In view of the observation of the Division Bench of this Court in the case of ***Vicky Bharat Kalyani Vs. The State of Maharashtra [2025 SCC OnLine Bom 193]*** the Investigating Officer is at liberty to re-arrest the accused on complying Article 22(1) of the Constitution of India as well as Section 50 of the Code of Criminal Procedure.

8. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)