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

CRIMINAL APPLICATION (BA) NO.1155/2024
Meera w/o Prakash Phadnis
..vs..
State of Maharashtra, through PSO Police Station Ranapratap Nagar, District Nagpur

....
Office Notes, Office Memoranda of Coram, appearances, Court orders or directions and Registrar's orders | Court's or Judge's Order
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Shri Anil S.Mardikar, Senior Counsel assisted by Shri Digvijay Singh, Advocate for the Applicant.
Shri D.V.Chauhan, Public Prosecutor (Senior Counsel) assisted by Ms.Ritu Sharma, Additional Public Prosecutor for the State.

CORAM	:	**URMILA JOSHI-PHALKE, J.**
CLOSED ON	:	**10/02/2025**
PRONOUNCED ON	:	**17/02/2025**

1. By this application, being moved under Section 439 of the Code of Criminal Procedure read with 483 of the Bharatiya Nagarik Suraksha Sanhita, the applicant seeks regular bail in connection with Crime No.387/2023 registered with the non-applicant/police station for offences punishable under Sections 409, 419, 420, 464, 468, 471, 170, 120B read with 34 of the Indian Penal Code read with 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

2. The crime is registered against the applicant on the basis of a report lodged by Sunil Vasantrao Kuhikar (complainant) at Ranapratap Nagar Police Station, Nagpur on allegations that he is acquainted with the applicant from last five years. In the year February 2022, the applicant contacted him and informed him that she has acquaintance with one Anirudh Anandkumar Hoshing a resident of Uttar Pradesh serving in Tourism Department as a Finance Officer/General Director. She further informed that if he invests amount in the Tourism Department, he would get handsome returns and further disclosed that she has also invested the amount. On the inducement of the applicant, he attended meeting at Nagpur and met co-accused Anirudh Hoshing who disclosed that the Tourism Department is floating Schemes viz. “Linen Cleaning and Tourists Vehicles” and if he invests the amount to participate in the said Scheme, he would receive the benefit of Rs.32.00 lacs and, therefore, the complainant has invested the amount by transferring Rs.4.00 lacs and Rs.2,85,000/-,. Total amount he has invested is Rs.15,60,000/-

till 25.10.2022. However, neither any agreement was executed nor any event was arranged and he was duped by co-accused Anirudh Hoshing. During the investigation, from statements of various witnesses, involvement of the applicant is revealed and it is also revealed that she has posed herself as “Nirdeshak Sallagar Samiti Sadasya”, Ministry of Tourism, Government of India and obtained the money from various investors on inducement of handsome returns and duped them. It was further revealed that she represented that one event would be organized in presence of the Hon’ble Chief Minister and other Ministers and prepared one Invitation Card. She has gained economical gain. On the basis of the same, the police registered the said crime against her.

3. Heard learned Senior Counsel Shri Anil S.Mardikar for the applicant and learned Public Prosecutor Shri D.V.Chauhan for the State.

4. Learned Senior Counsel for the applicant submitted that initially, the name of the applicant was not in the FIR. Subsequently,

she was arraigned as an accused. The applicant is victim in the said scam as she has invested the amount with the co-accused. The son of the applicant has also invested the amount. As regards preparation of Invitation Cards, he submitted that it was not the applicant who prepared the said Invitation Cards. In fact, she was not aware about preparation of the said Invitation Cards.

He also invited my attention to Statement of Accounts and submitted that the applicant herself has invested the amount. The WhatsApp Chats, on which the prosecution relied upon, are not by the applicant. In fact, one Company viz. “Mahee Rage Industries Private Limited” is involved in illegal activities and amount of misappropriation is deposited in the Bank Account of the said Company. The applicant has no concern with the said Company.

He further invited my attention towards the balance amount shown in the Bank Account of the said Company and submitted that it shows no transaction took place and very meager amount is shown as balance amount in the Bank Account.

He further invited my attention to the summary of the chargesheet and submitted that the allegation of forging of the Invitation Cards is against other co-accused namely one Areef Khan.

He further submitted that after rejection of the anticipatory bail application bearing NO.687/2023 on 1.3.2024, the applicant has surrendered on 5.3.2024 and since then she is behind bar. Now, the investigation is already completed and chargesheet is already filed. Further incarceration of the applicant is not required. He submitted that merely because the involvement of the applicant is in economic offence, it is not sufficient to reject her application. In fact, after filing of the chargesheet, no charges are framed. The trial will take its own time for its final disposal. In view of the same also, the applicant be released on bail.

5. In support of his contentions, learned Senior Counsel for the applicant placed reliance

on following decisions:

> **1. Criminal Appeal NO.4011/2024 (V.Senthil Balaji vs. The Deputy Director, Directorate of Enforcement), report decided by the Supreme Court on 26.9.2024;**
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> **2. P.Chidambaram vs. Central Bureau of Investigation, reported in (2020)13 SCC 337;**
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> **3. Satender Kumar Antil vs. Central Bureau of Investigation and anr, reported in (2022)10 SCC 51;**
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> **4. Criminal Application (BA) No.842/2024 (Smt.Vijayalaxmi w/o Ramanrao Bolla vs. State of Maharashtra) decided by this Court on 22.10.2024;**
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> **5. Manish Sisodia vs. Directorate of Enforcement, reported in 20204 SCC OnLine SC 1920, and**
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> **6. Kalvakuntia Kavitha vs. Directorate of Enforcement, reported in 2024 SCC OnLine SC 2269.**

6. *Per contra*, learned Public Prosecutor for the State opposed the application on ground that statements of witnesses recorded during the investigation clearly show involvement of the applicant in the alleged offence. Co-accused Anirudh Anandkumar Hoshing posed himself as official of the Department of Tourism and the

applicant posed herself as Member of Advisory Committee, Department of Tourism, Government of India and collected amounts. During investigation, Bank Account Details of the daughter of the applicant were obtained in which amount Rs.21.00 lacs was transferred. It further revealed that the applicant has accepted gold ornaments and diamonds from the co-accused. Various brochures and symbols of the Government of India were seized which show that the applicant by posing herself as Member of Advisory Committee, Department of Tourism, Government of India obtained amounts by showing bogus offers and thereby duped various investors. He submitted that for all above grounds, the application deserves to be rejected.

7. After hearing both the parties and perusing the investigation papers, it reveals that allegations against the applicant are that by posing herself as Member of Advisory Committee, Department of Tourism, Government of India, she represented the complainant that if he invests the amount in the Schemes of Tourism Department, he

would get handsome returns. She introduced the complainant with co-accused Anirudh Hoshing who induced the complainant to invest in two Schemes namely “Linen Cleaning and Tourists Vehicles”. By the said Schemes, Innova Vehicles are to be obtained for the Tourism Department and promise was given to the complainant that he would receive Rs.32.00 lacs as a profit. Therefore, the complainant has deposited total amount of Rs.15,60,000/-. Accordingly, the complainant deposited the amount and, thereafter, the applicant and the co-accused prepared Invitation Cards showing names of the Hon’ble President and the Hon’ble Prime Minister of India and other Hon’ble Ministers of the Tourism Ministry and assured investors that if amounts are invested, they would get handsome returns. The Investigating Officers seized various brochures and symbols of the Government of India. During the investigation, statements of various witnesses are also recorded which reveal that they were having acquaintance with the applicant who induced them to invest amounts and also represented that various Schemes are floated by the Tourism Ministry and the said Schemes would be inaugurated by the Hon'ble President and the Hon'ble Prime Minister of India and there would be presence of various bureaucrats in the said function. She had also shown Invitation Cards wherein names of all other dignitaries were mentioned. Not only this, statements of witnesses further reveal that the applicant gifted gold ornaments to various investors. The said gift boxes were containing gold coins. Statement of Manik Avinash Pande shows that he received a phone call from the applicant and her counsel asking her not to appear before the Economic Offence Wing and gave her statement and they would settle her account subsequently.

8. Thus, the said statement shows that not only the applicant has duped investors on false promises but also attempt was made to affect the investigation by contacting witnesses. During investigation, WhatsApp Chats of the applicant with the co-accused are also seized from which also involvement of the applicant clearly reveals.

By committing the offence, the applicant gained economic benefits. Not only the applicant but also some amounts are received in the Bank Account of her daughter.

9. Learned Public Prosecutor for the State submitted that by using crime proceeds, the applicant has sent her son abroad for further education, which is denied by learned Senior Counsel for the applicant by placing on record documents to show that she has obtained education loan to send her son abroad for education.

10. Various statements of witnesses show that huge amount was collected by the applicant and other co-accused.

11. Thus, the applicant's involvement reveals in the commission of the offence.

12. Though learned Senior Counsel for the applicant claimed that the applicant has no connection with Company viz. "Mahee Rage Industries Private Limited", documents placed on record showing the Company's information show the

applicant as Director of the said Company.

13. Statements of witnesses, Bank Account Statements, and various seizure panchanamas not only show inducement but also show that the applicant received a monitory benefits from the said transactions.

14. Admittedly, now, the investigation is completed and chargesheet is filed.

15. Learned Senior Counsel for the applicant vehemently submitted that though the applicant’s involvement is in economic offence, that by itself is not sufficient to reject the application for bail and placed reliance on the decision in the case of **P.Chidambaram** *supra* wherein aspect of involvement in economic offence is considered. It is held that there is no hard and fast rule regarding grant or refusal to grant bail. Each case has to be considered on the facts and circumstances of each case and on its own merits. The discretion of the court has to be exercised judiciously and not in an arbitrary manner. There is no straight jacket formula so as to deny the

bail. The considerations including "flight risk" is to be made on individual basis being uninfluenced by the unconnected cases, more so, when the personal liberty is involved.

16. In the case of **Manish Sisodia** *supra,* the Hon'ble Apex Court has considered the aspect of delay in trial and it is held that on account of a long period of incarceration running for around 17 months and the trial even not having been commenced, the appellant has been deprived of his right to speedy trial. The right to speedy trial and the right to liberty are sacrosanct rights. On denial of these rights, the trial court as well as the High Court ought to have given due weightage to this factor.

17. In the case of **Kalvakuntia Kavitha** *supra,* the Hon'ble Apex Court, by referring the judgment in the case of **Manish Sisodia** *supra,* held that the prolonged incarceration before being pronounced guilty of an offence should not be permitted to become punishment without trial. It is further observed that the well established principle of

law is that the bail is rule and refusal is exception and fundamental right of liberty provided under Article 21 of the Constitution is superior to statutory restrictions.

18. In the case of **V.Senthil Balaji** *supra,* by referring the decisions in cases of **Manish Sisodia** *supra* and **Union of India vs. K.A.Najeeb, reported in (2021) 3 SCC 713,** it is held that the legislature has done so to secure the object of making the penal provisions in such enactments. Considering gravity of offences in such statues, expeditious of trials for the crimes under the statutes is contemplated.

19. On the basis of the above, learned Senior Counsel for the applicant prays for releasing the applicant on bail.

20. There is no dispute that involvement of the applicant is in economic offence. She has not only obtained the money by inducing various investors but also used names of the Hon’ble President and the Hon’ble Prime Minister of India to secure faith of investors and on false

promises, by showing forged documents, investments were accepted. She has used crime proceeds for her own benefits. The various statements of witnesses show direct involvement of the applicant in the alleged offence. These offences are not committed suddenly but by hatching a conspiracy.

21. The Hon’ble Apex Court, while dealing with offence, involving conspiracy to commit economic offences of huge magnitude, 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.

22. The Hon’ble Apex Court, in the case of **State of Gujarat vs. Mohan Lal Jitamalji Porwal, reported in (1987)2 SCC 364** held as follows:

> “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…..”

23. Thus, in view of observations of the Hon’ble Apex Court in cases *supra*, economic

offences constitute a class apart and need to be visited with different approach in the matter of bail. The economic offences having conspiracies and involved a huge loss of public funds need to be viewed seriously.

24. In the present case, in a very systematic manner, the applicant and the co-accused obtained amounts from various investors by posing themselves as representatives of the Department of Tourism, Government of India and also by using names of the Hon'ble President and the Hon'ble Prime Minister of India misappropriated amounts and obtained economic gains. This indicates a systematic plan of the applicant along with the co-accused with an intention to defraud the complainant and other investors and, therefore, this is not a fit case wherein discretion can be used in favour of the applicant.

25. The applicant has surrendered on 5.3.2024 in connection with Crime No.988/2023 and subsequently arrested in the present crime also.

After completion of the investigation, the chargesheet is filed on 5.10.2023, but the applicant is taken into custody in connection with the present crime on 13.3.2024.

26. As far as speedy trial is concerned, there is no dispute as to the legal position that right of speedy trial is enshrined under Article 21 of the Constitution. However, in the present case, still further investigation is going on. The summary of the chargesheet itself shows that the investigation agency has filed chargesheet by seeking permission of further investigation under Section 173(8) of the Code.

27. As far as delay in trial is concerned, though the crime is registered on 10.8.2023, the applicant surrendered on 5.3.2024 and supplementary chargesheet is filed on 8.5.2024. Still, further investigation is in progress.

28. Thus considering all above facts, this is not a fit case to grant bail to the applicant.

29. In this view of the matter, the

application deserves to be rejected and the same is **rejected**.

30. Needless to mention that observations made in this order are purely *prima facie* for deciding the present application only and learned Judge below shall not be influenced by the same.

Application stands **disposed of**.

(**URMILA JOSHI-PHALKE, J.**)

!! BrWankhede !!