



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

CRIMINAL APPLICATION (BA) NO. 1163 OF 2024

Shri. Shilpa Rajiv Palparthi 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. A.S. Samdekar, counsel for applicant.

Mr. M.J.Khan, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 20/01/2025.

1. Applicant came to be arrested on 16/05/2022 in connection with Crime No.09/2022, registered with Police Station, Kelwad, District Nagpur for the offences punishable under Sections 406, 411, 413, 420, 467, 468, 471, 120-B, 201 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by Satish Prakash Aadhe on an allegation that he was unemployed and when he was searching for a job and got acquaintance with one Ramesh Kamone who introduced him with the present applicant Shilpa Palparthi. At around April month end, the co-accused, along with Ramesh Kamone, contacted the complainant and visited his village, Khurajgaon. The co-accused is a labor contractor, and Ramesh Kamone was a Teacher. On 12/05/2020, co-accused and Ramesh Kamone contacted the complainant and asked Rs.10 Lakhs for securing a job in WCL or State Bank of India. At the relevant time, the complainant transferred the amount of Rs.2,38,000/- in the account of

Ramesh Kamone. On 29/05/2020, the co-accused contacted the complainant along with one Amit Kowe, and they visited the complainant at Gandhi Putala, Saoner. At the relevant time, they told the complainant that job of Clerk is available in WCL and demanded the amount of Rs. 5,85,000/-. The complainant paid Rs.3,73,000/- in cash to the present applicant, and Rs.2,12,000/- was transferred through NEFT in account No.13390133313649 of Ramesh Kamone at Federal Bank Limited.

3. It is further alleged that the present applicant and the other co-accused have issued the interview letter to the complainant. Accordingly, the complainant visited the office of the WCL along with his wife. At the relevant time, the present applicant was present there. Thereafter, the mock interview was arranged, and the forged appointment letter was issued to the complainant, and subsequently, he came to know that it was a forged appointment letter, and therefore, he approached the police and lodged the report. On the basis of the said report, police have registered the crime against the present applicant and the other co-accused.

4. Heard learned counsel for the applicant, who submitted that as far as the present applicant is concerned, there is no material to show that she has prepared the forged document. It is further submitted that the allegation as to the acceptance of the amount against the present applicant is also false. During the investigation, some

statements are recorded, but nothing reveals from the investigation papers to show that it was the present applicant who has issued the said interview letter or the appointment letter, which appears to be forged. Now, the investigation is already completed, and the trial will take its own time for the final disposal. The applicant cannot be kept behind bar by way of pre-trial punishment, in view of that she be released on bail.

5. He further submitted that the other two accused are already released on bail by this court, in view of the fact that, the application deserves to be allowed.

6. Learned APP strongly opposed the said application and submitted that it was the present applicant, who induced the complainant, other persons and several jobless persons by taking disadvantage of their unemployment, were duped. In all six offences are registered against the present applicant, which are of a similar nature. There is apprehension that, if she is released on bail, she may abscond or will be involved in similar types of activities. In view of that, the application deserves to be rejected.

7. In support of his contention, he placed reliance in the observation of ***Y.S. Jagan Mohan Reddy vs. CBI, [(2013)7 SCC 439]*** and submitted that guidelines issued by the Hon'ble Apex Court as far as the involvement in the economic offences is concerned, which shows that the nature of accusations, and limited evidence, severity of

the punishment which conviction will entail, and the characterized circumstances, which are peculiar to the accused, reasonable possibility of securing the presence of the accused for the trial are some of the considerations, therefore, the application deserves to be rejected.

8. After hearing both sides and on perusal of the investigation papers, it reveals that the allegation against the present applicant is that it was she who approached the complainant and induced him for payment of providing him a job. The statement of the complainant and the statements of the other witnesses show that several unemployed youth are duped by giving them a promise of providing jobs either in SBI or WCL. It is not the allegation that only the amounts are obtained to provide a job, but the involvement of the present applicant, which reveals from the statement of the witnesses, is to the extent that she was present when the complainant had been for the interview. A mock interview was conducted, and the mails were issued showing that the complainant has received a job and the interview letters; the appointment letters appear to be forged one. Thus, the involvement of the present applicant in the economic offence reveals itself from the investigation papers.

9. The another ground raised by the present applicant is that there is a delay in trial, and therefore, he placed reliance on the decision of *Manish Sisodia Vs Directorate of Enforcement [2024 SCC Online SC 1920]*,

wherein the Hon'ble Apex Court has considered that 17 months have elapsed and there is no progress in the trial, and trial is not commenced and released the accused therein on bail. In the said judgment, the Hon'ble Apex has considered the earlier decision in the case of *Javed Gulam Nabi Shaikh vs the State Of Maharashtra and another [in Criminal Appeal No 2787 of 2024 (Arising out of SLP (Crl) No 3809 of 204)]* and various judgments including *Satender Kumar Antil Versus Central Bureau Of Investigation & Anr. [2022 LiveLaw (SC) 577]*.

10. After hearing learned counsel for the applicant and learned APP for the State, there is no dispute as to the fact that the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution. The decision in the case of *Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Criminal Appeal No.2790/2024 (Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari vs. State of Uttar Pradesh)* decided by the Hon'ble Apex Court on 18.6.2024 was relied upon by Three-Judge Bench of the Hon'ble Apex Court in the case of *Union of India vs. K.A.Najeeb, [(2021) SCC OnLine SC 50]*, wherein respondent therein was in jail for more than five years and charges were framed and 276 witnesses were left to be examined and the Hon'ble Apex emphasized that liberty granted by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and speedy trial. No under trial can be detained indefinitely pending trial. Once

it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

11. The decision in the case of ***Union of India vs. K.A.Najeeb*** supra was distinguished by Two-Judge Bench of the Hon'ble Apex Court in the case of ***Gurwinder Singh vs. State of Punjab [(2024)SCC OnLine SC 109]*** and it is observed that in the case of ***Union of India vs. K.A.Najeeb*** supra this court considered that the appellant has been in jail for last five years which is contrary to law laid down in the case of ***K.A.Najeeb***. This court was confronted with a circumstance wherein except the respondent-accused, other co-accused had already undergone trial and were sentenced to imprisonment of not exceeding eight years therefore this court's decision to consider bail was grounded in the anticipation of the impending sentence that the respondent-accused might face upon conviction and since the respondent-accused had already served portion of the maximum imprisonment i.e., more than five years. He was released on bail. It is held that mere delay in trial pertaining to grave offences as one involved in the instant case cannot be used as ground to grant bail.

12. In a subsequent decision, in the cases of ***Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari*** supra by referring decisions in cases of ***K.A.Najeeb and Gurwinder Singh***, referred supra, the Hon'ble Apex Court

held that in ***Gurwinder Singh*** supra on which reliance has been placed by the respondent, a Two Judge Bench of this Court distinguished ***K.A.Najeeb*** supra holding that the appellant in ***K.A.Najeeb*** supra was in custody for five years and that the trial of the appellant in that case was severed from the other co-accused whose trial had concluded whereupon they were sentenced to imprisonment of eight years; but in ***Gurwinder Singh***, the trial was already underway and that twenty two witnesses including the protected witnesses have been examined. It was in that context, the Two-Judge Bench of this Court in ***Gurwinder Singh*** supra observed that mere delay in trial pertaining to grave offences cannot be used as a ground to grant bail. It was further held that right to life and personal liberty enshrined under Article 21 of the Constitution of India is overarching and sacrosanct. A constitutional court cannot be restrained from granting bail to an accused on account of restrictive statutory provisions in a penal statute if it finds that the right of the accused under trial under Article 21 of the Constitution of India has been infringed. In that event, such statutory restrictions would not come in the way. Even in the case of interpretation of a penal statute, howsoever stringent it may be, a constitutional court has to lean in favour of constitutionalism and the rule of law of which liberty is an intrinsic one. In the given facts of a particular case, a constitutional court may decline to grant bail. But it would be a very wrong to say that under a particular statute, bail cannot be granted.

13. Thus, having regard to the above discussion and facts of the present case would show that the involvement of the present applicant is not only in the offence of duping the various unemployed youth, but her involvement also reveals that not only the amount was accepted to provide a job, but her participation further reveals in a mock interview in the name of the semi-government organization as well as issuing the forged interview letters and the appointment letters. Not only this, the repeated offences are registered against the present applicant of a similar nature. Thus, the involvement of the present applicant is in the economic offence, as rightly pointed out by the learned APP that in the case of **Jagan Mohan Reddy**, the Hon'ble Apex Court has issued the guidelines while considering the application for grant of bail in economic offences are concerned.

14. In the case of **Y.S. Jagan Mohan Reddy vs. CBI**, referred supra wherein following parameters are laid down:

- 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.

15. Admittedly, his involvement of the present applicant is in economic offence in a huge magnitude, and repeated offences are registered against her. There is apprehension of her abscondence. Considering all these aspects, this not a fit case, wherein discretion can be used in favour of the present applicant. Accordingly, I proceed to pass the following order.

a] The criminal application is rejected.

[URMILA JOSHI-PHALKE, J.]