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

CRIMINAL APPLICATION (BA) NO. 1258 OF 2024

Sunil S/O Kashinath Yerme 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

Ms. Aasavari S. Kale, counsel for applicant.
Mr. M.K.Pathan, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/02/2025.

1. The applicant came to be arrested on 02/04/2024 in connection with Crime No. 193/2019 registered with Police Station Butibori (Gramin), District Nagpur for the offence punishable under Sections 409, 420, 120(b) of the Indian Penal Code, 1860 and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

2. The learned counsel for the applicant submits that a crime is registered on the basis of a report lodged by Vikas Govind Wanjari on 16/03/2019 alleging that the present applicant and the other co-accused, who were Directors of Shriram Multi State Agro Purpose Co-operative Society limited, floated the scheme and obtained the investment from the various investors and thereafter did not pay the amount to them and committed misappropriation worth Rs. 79, 43,122/-.

3. Learned counsel for the applicant submitted that as far as the present applicant is concerned, he is the Director

and he resigned in the year 2016, and other Directors with similar roles are already released on bail by this Court. Thus, on the ground of parity also, the present applicant is released on bail. She further submitted that, now investigation is already completed and further incarceration of the present applicant is not required.

4. In support of her contention, she placed reliance in the case of ***Satender Kumar Antil Vs. Central Bureau of Investigation and another [(2022) LiveLaw SC 577]***, wherein the case of ***P. Chidambaram v. Directorate of Enforcement, [(2020) 13 SCC 791]*** was referred to, wherein the tripod test considering the involvement of the accused in economic offence was laid down, and even applying the said tripod test, the applicant has made out a case for grant of bail. She submitted that, in view of that, the applicant be released on bail.

5. Learned APP strongly opposed the said application and submitted that the applicant is involved in an economic offence. The gravity of the offence is to be taken into consideration that huge stake, wherein the involvement of the applicant is involved in the offence of misappropriation. The poor investors have lost their hard earned money due to the said misappropriation. If the applicant/accused released on bail, he would tamper with the persecution evidence. In view of that, the application deserves to be rejected.

6. Learned APP further submitted that ground of parity is not available to the present applicant as the co-accused is

released on bail, considering he was incarcerated for more than three and half months.

7. After hearing both the sides and on perusal of the investigation papers, it reveals that as far as the involvement of the present applicant in economic offence is concerned, is not disputed. The period of misappropriation is 2012 to 2017, the applicant has resigned as a Director in the year 2016. Thus, during his tenure also, there was a misappropriation of the said amount, and the involvement of the present applicant revealed in the economic offence.

8. As far as the involvement of the present applicant in involvement of the offence is concerned, the learned counsel for the applicant placed reliance of the decision of ***P. Chidambaram v. Directorate of Enforcement, [(2020) 13 SCC 791]***, wherein the Hon'ble Apex Court has considered that an an economic offence cannot be classified as such, as it may involve various activities and may differ from one case to another. Therefore, it is not advisable on the part of the court to categorise all the offences into one group and deny bail on that basis.

9. It is further held "thus, from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench of this Court, it could be deduced that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same the

gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of “grave offence” and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provide so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial. Thus, the grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping on him.

10. Considering the above facts and circumstances, now investigation is already completed and charge-sheet is already filed, some of the co-accused are already released on bail. Hence, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order.

a] The criminal application is allowed.

b] The applicant – **Sunil s/o Kashinath Yerme**, shall be released on bail, in connection with crime No. 193/2019 registered with Police Station Butibori (Gramin), District Nagpur for the offence punishable under Sections 409, 420, 120(b) of the Indian Penal Code, 1860 and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, on executing P.R. Bond of Rs. 50,000/- with one surety of like amount.

c] The applicant shall attend the concerned police station twice in a month on 1st and 15th day of every month till conclusion of the trial.

d] The applicant shall surrender his passport if he is having before the trial court.

e] The applicant shall not leave the jurisdiction of District Court Nagpur without prior permission of the District Court, Nagpur.

f] The applicant shall attend the proceeding regularly without seeking any exception, unless there are exceptional circumstances.

g] The applicant shall also furnish his cell phone number, address along with the names of two relatives and their address with their address proof.

h] The contravention of any of the conditions imposed would lead to the cancellation of bail.

11. The criminal application is **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J.]