ORDER BELOW EXH.45 BAIL APPLICATION OF ACCUSED NO.4 ARPITA SUNIL WADKAR, JAWAHAR NAGAR POLICE STATION, AURANGABAD.

Read application and say. This is the bail application filed by accused No.4 releasing her on bail.

2. The Learned Advocate for accused submitted that, this accused was girlfriend of accused No.1. This accused was never working in Divisional Sports Complex, Chatrapati Sabhajinagar as a government employee or on contract basis. There was no evidence against accused No.4 that she participated in crime. The mistake is that she was girlfriend of accused No.1, she believed on accused No.1. Accused No.1 told her that he was doing some investment in Share market business and getting good returns. So, she believed on the said. She did not made any help to accused No.1. The charge against her is that she received the amount from accused No.1 and some property purchased by accused No.1 for this accused. This accused No.4 is bright girl having good educational background. She also applied for exams of police constable. There was no previous criminal record against her. In fact as per the statement of one lady accused No.1 promised that lady to marry and she believed on it. That lady also received the gifts from accused No.1 but that lady did not made accused and this accused was added only for to receive gifts. There was no evidence that she helped accused to disposed of the evidence. Whatever property claimed by the prosecution already seized. All the documents seized, gold ornaments seized, so no question arise for tampering the prosecution witnesses. Hence, application may

kindly be allowed and this accused being she is lady may kindly be released on bail.

3. Ld. Advocate for accused placed to the reliance the judgment of Sanjay Chandra Vs. CBI AIR 2012 SC 830.

26) When the under-trial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated. Every person, detained or arrested, is entitled to speedy trial, the question is : whether the same is possible in the present case. There are seventeen accused persons. Statement of the witnesses runs to several hundred pages and the documents on which reliance is placed by the prosecution, is voluminous. The trial may take considerable time and it looks to us that the appellants, who are in jail, have to remain in jail longer than the period of detention, had they been convicted. It is not in the interest of justice that accused should be in jail for an indefinite period. No doubt, the offence alleged against the appellants is a serious one in terms of alleged huge loss to the State exchequer, that, by itself, should not deter us from enlarging the appellants on bail when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with evidence. We do not see any good reason to detain the accused in custody, that too, after the completion of the investigation and filing of the charge-sheet.

This Court, in the case of State of Kerala Vs. Raneef (2011) 1 SCC 784, has stated :-

“15. In deciding bail applications an important factor which should certainly be taken into consideration by the court is the delay in

concluding the trial. Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody? Is Article 21 of the Constitution, which is the most basic of all the fundamental rights in our Constitution, not violated in such a case? Of course this is not the only factor, but it is certainly one of the important factors in deciding whether to grant bail. In the present case the respondent has already spent 66 days in custody (as stated in Para 2 of his counter-affidavit), and we see no reason why he should be denied bail. A doctor incarcerated for a long period may end up like Dr. Manette in Charles Dicken's novel A Tale of Two Cities, who forgot his profession and even his name in the Bastille."

P. Chidambaram Vs. C.B.I. AIR 2019 SC 5272

22. The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail:- (i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution; (ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses; (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; (iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused; (v) larger interest of the public or the State and similar other considerations (vide Prahlad Singh Bhati v. NCT, Delhi and another(2001) 4 SCC

280). 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. At this stage itself, it is necessary for us to indicate that we are unable to accept the contention of the learned Solicitor General that "flight risk" of economic offenders should be looked at as a national phenomenon and be dealt with in that manner merely because certain other offenders have flown out of the country. The same cannot, in our view, be put in a straight-jacket formula so as to deny bail to the one who is before the Court, due to the conduct of other offenders, if the person under consideration is otherwise entitled to bail on the merits of his own case. Hence, in our view, such consideration including as to "flight risk" is to be made on individual basis being uninfluenced by the unconnected cases, more so, when the personal liberty is involved.

4. Ld. APP strongly objected and submitted that, in short case is that, accused No.1 was working as a Computer Operator on contract basis and he along with accused No.2 and accused No.3 with the help of accused No.8 and accused No.9 being a banker changed the mobile number along with the email and by some forged documents misappropriated transferred the amount. Some accused purchased the properties, gold, vehicles and other things. This was done by accused No.1. In fact accused No.1 with the help of other accused including accused No.10 and accused No.11 prepared a false account statement. But all these came to the knowledge when officer Swapnil Subnis told bank manager to

send the statement of accounts of Divisional Sports Complex/Centre on official email-ID. Then this Swapnil Subnis got knowledge that, some doubtful transaction was their from 01 July 2024 to 07 July 2024 and entries made by accused No.1. Then was inquiry and FIR was lodged.

5. Ld. APP further submitted that, this accused was girlfriend of accused No.1. The bank statement clearly shows that this accused received the amount. She received the items purchased through this misappropriated amounts. The property were purchased. All the properties were seized. In fact, big flat was purchased by this accused from the misappropriated amount. Accordingly, this lady helped accused No.1 to disposed off the misappropriated amount. This lady received misappropriated amount by accused no.1. Huge amount was misappropriated being owned by Government and i.e. more than 21 crores. So, considering the nature of evidence definitely this accused is a beneficiary and she help to accused No.1 invest dishonest amount in property. So, the amount misappropriated was Rs.21,59,38,287/-. This amount is very huge amount belongs to the Government. If this accused released on bail then definitely being girlfriend of accused No.1 she may try to destroy the evidence which yet to be collected. This accused is from Mumbai. She may fly away if she released on bail. At present charge sheet was filed. But considering the nature of offence still investigation is continued. This accused may help accused if released on bail to tamper the evidence. So, it will hamper on trial. Now, the charge is framed and muddemal was also called and case is ready for trial.

In such case, no case made out by accused to release her on bail. Hence, application may kindly be rejected.

6. The case of the prosecution is that, the accused No.1 was working on contract basis in Divisional Sport Complex/Centre. As per the Government policy to develop the infrastructure for the sports this complex was raised and one committee form under the Head of Guardian Minister and Divisional Commissioner. Government also transferred the fund in the account of the said Divisional Sports Complex maintained in Indian Bank. However, Deputy Director sent one letter for bank statement through accused No.1 wherein accused No.1 changed email-ID by hand as well as inserted his mobile number and accordingly accused No.1 transferred amount of Divisional Sports Complex. However, for the said accused No.2, accused No.3 help this accused. Accused No.8 and accused No.9 are the bank employee. They did not properly verified and transferred the amount. Accused No.4 is the friend of accused No.1 who was beneficiary and help accused No.1 to invest dishonest amount. Accused No.5 and accused No.6 also being father and mother of accused No.1 are the beneficiary and help accused to invest the dishonest amount which misappropriated by accused No.1. Accused No.7 is the maternal uncle and accused No.7 he also received the amount from accused No.1 to invest the dishonest amount. Accused No.10 is the Government employee and mostly he was given duty to maintain cash book, to send emails, to make correspondence, to obtain bank statement and otherwise. But, accused No.10 help accused No.1 to change the email-ID and mobile number. The accused No.11 was also shown

to be the beneficiary for receipt of Rs.80,00,000/- from accused No.1.

7. Accused No.1 to 3 with the help of accused No.8 to 10 changed the email-ID of Divisional Sports Complex given to bank as well as they changed the mobile number given to the bank of concern person who was responsible who operate the account. This responsible person was Swapnil Subnis Deputy Director. This accused No.1 to 3 and 8 to 10 used internet facility and internet banking by changing email-ID and mobile number misappropriated the amount of Rs.21.59 Cr. and other accused are the beneficiary as well as help to invest dishonest amount. By this misappropriated amount accused purchased properties in Aurangabad, Navi Mumbai and in Malegaon. Accused purchased the gold, household items, vehicles. This came to the knowledge when bank statement received to this Deputy Director Swapnil Subnis for audit and found some doubtful transaction made by accused No.1. Then, the FIR was lodged and accordingly investigation was carried out. Thereafter, the accused were arrested and muddemal was seized, properties were seized, vehicles were recovered. Charge sheet was filed against accused No.1 to 11. Thereafter, the charge was framed and accused pleaded not guilty. The muddemal was called. So the matter is pending now for evidence and the bail petitions were filed by the accused.

8. This accused No.4 was a girlfriend of accused No.1. As per the prosecution she received of Rs.1,01,51,998/- and she purchased property in Aurangabad. Further, she purchased one

shop in Aurangabad. Various gold articles were purchased by this accused or gifted to her by accused No.1. She received huge benefits from accused No.1 and it cannot be accepted that she did not know anything about accused No.1 from where he brought amount. Further, at present prima facie it is clear that she received benefit of misappropriated amount and she helped accused No.1 to disposed off the misappropriated amount. A huge amount is involved. The offence is very serious. So, considering role of accused at present I do not found substance that she will attend the Court. In fact, if she released on bail, then she may helped accused No.1 to tamper the prosecution evidence. Further, this accused is from Mumbai. So, this possibility is more that she may fly away. So, it will hamper on the trial. Now, case is pending for evidence. In such situation, if evidence tamper then trial will be hamper. Hence, this accused did not make out case to grant bail. So, considering the role of this accused she being beneficiary and help to invest the misappropriated amount and prima facie evidence against her, she is not entitled for bail. Thus, considering the seriousness of offence and prima facie evidence, no case made out to release the accused on bail. Hence, I proceed to pass the following order -

ORDER

Application for bail by accused No.4 is rejected.

RAGHUNATH SHRIDHAR JAMBOTKAR

Digitally signed by RAGHUNATH SHRIDHAR JAMBOTKAR
Date: 2025.04.30 15:03:36 +0530

(R. S. Jambotkar)
Chief Judicial Magistrate,
Aurangabad.

Date:- 29/04/2025.