

MHNS070003702018

Sessions Case No. 16 of 2018



The State of Maharashtra
Vs.
Laxmikant Shrikrishna Narvekar (A-1)

ORDER BELOW Exh.12
(Passed on 05/12/2024)

1. This is an application for bail under Section 436-A of the Code of Criminal Procedure, 1973, submitted by accused No.1 namely Luxmikant Shrikrishna Narvekar through the Jail Authority, Nashik Road, Nashik.

2. The application is opposed by the Ld. APP for the State by filing written say of I.O./concerned Police Officer at Exh.13.

3. Record shows that the accused no.1 and other accused are charge-sheeted in connection with C.R. No.122/2017 registered at Satana Police Station, for the offence p/u/s 420, 406, 409, 120(b) of the Indian Penal Code and Section 3 and 4 of Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

4. In the application accused no.1 has submitted as under:

Since 6 years and 9 months accused No.1 is in Jail in connection with above mentioned crime. Maximum punishment prescribed for the offence p/u/s. 420 of I.P.C. and other sections levelled is of 7 years imprisonment. As per the provision of Section 436-A of the Code of Criminal Procedure, 1973, if the accused is in jail for half of the maximum sentence the accused is entitled for bail. As the accused no.1 has already undergone

imprisonment for more than 6 years and 9 months he be released on bail. Accused Varsha Satpalkar was the Director of the said company. Accused No.1 was an employee in the said company. He has been made scapegoat in the matter. The Hon'ble High Court granted bail to the present accused No.1 in connection with C.R. No. 80 of 2017 registered at Niphad Police Station Nashik for the similar kind of offences, vide order dated 26/08/2024 passed in Criminal Bail Application No. 1501 of 2024. In that order the Hon'ble High Court considered the fact that the accused is in Jail for last 6 ½ years. The copy of the said order is submitted along with the application. It is settled law that bail and not jail is the rule and bail should not be refused by way of punishment before trial. Therefore, the accused No.1 be released on bail.

5. On the other hand, Ld. APP for the State submitted as under:

The accused has filed applications on record at Exh.6, 7 to adjourn the proceeding and stay the matter till the order of clubbing is passed on his petition before the Hon'ble High Court. Section 409 of I.P.C. is punishable with imprisonment for life or imprisonment for 10 years or fine. There is no delay on the part of prosecution to proceed with the matter. Therefore, the accused is not entitled for the bail u/sec. 436-A of Cr.P.C. Amount involved in the present matter is more than 3,61,86, 200/-. The offence is antisocial and sections of MPID Act are applicable. Offence is committed in the State of Maharashtra as well as out of the State of Maharashtra. Similar kind of application was filed by the accused no.1 has been rejected vide order dated 06/01/2023. There is no change in circumstances. Charge is already framed on 01.6.2022 and the prosecution is ready to proceed with the matter. Accused no.1 and other accused are protracting the trial deliberately. If accused No.1 is released on

bail he will pressurize the informant and witnesses and he may abscond. The accused no.1 has not return the amount to any of the investors. Therefore, the application should be rejected.

6. I have gone through the charge-sheet and copies of documents filed alongwith the charge-sheet. Accused no.1 and other accused are charge-sheeted for the offence p/u/s 420, 406, 409, 120(b) of the Indian Penal Code and Section 3 and 4 of Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999. Record shows that the accused no.1 and other accused i.e. accused no.2 by filing applications at Exh.10 and 11 have submitted that they have filed Writ Petitions before the Hon'ble High Court at Judicature of Bombay for clubbing their various cases and those Writ Petitions are still pending, therefore the present proceeding or trial should be stayed. My Ld. Predecessor has passed order on those applications.

7. Admittedly, amongst other sections, Section 409 of the Indian Penal Code and Section 3 and 4 of M.P.I.D. Act are levelled against accused no.1 and other accused. Offence p/u/s. 409 of I.P.C. provides punishment for life or imprisonment for 10 years and fine. As per explanation below Section 436-A of Cr.PC., while computing the period of detention under this section for grant of bail, the period of detention passed due to the delay in the proceeding caused by the accused shall be excluded. In the present case record shows that because of the applications filed by the accused no.1 and 2 the further progress in the trial is not done as both accused had submitted that their Writ Petitions before the Hon'ble High Court for clubbing the various cases against them are still pending, therefore the trial should not be commenced. Therefore, the prosecution is not at fault for the delay in the trial. Accused no.1 and 2 themselves have caused

the delay in the trial. Therefore, in view of the explanation below Section 436-A of Cr.P.C. and considering the punishment prescribed for the other offences levelled against accused it can be said that the accused no.1 is not entitled for bail under Section 436-A of Cr.P.C. It is to be noted that besides the present case there are other cases other cases pending against accused in the State of Maharashtra, Gujrat, Madhya Pradesh and other States. The amount involved in the cases is in Corers. In view of this and considering facts and circumstances of the present case and the conduct of accused no.1 it can be said that the accused no.1 is not entitled for bail under Section 436-A of Cr.P.C. As such the application is to be rejected. Hence, I pass the following order.

ORDER

1. The application is rejected
2. Inform accordingly, to the D.G.P./PP and Police Officer of concerned Police Station.

(Soft copy of this bail order be sent to the concerned Jail Authority through E-mail for providing its copy to the accused No.1.)

Date:- 05/12/2024
Malegaon.

(K. R. Patil)
Addl. Sessions Judge, Malegaon,