



MHPU200015622021

**Bail Order in RCC No.369/2021, Shikrapur Police station in offence
under Section 420, 409, 465, 467, 468, 471, read with 120B of Indian
Penal Code.**

1. The accused namely Rahul Vasant Takalkar has filed this application for bail under section 437 of Criminal Procedure Code, after filling of the charge-sheet, in Cr.No. 139/2021 registered at Shikrapur Police Station for aforesaid offences. Heard, Ld. Advocate for the accused and Ld.APP for the state. The Ld. Advocate for the accused submitted that, the present crime is politically motivated and because of monitory interest and due to that the present applicant/accused has been falsely implicated in this case. He further submitted that, prima facie no case is made out for the aforesaid offences. Moreover, there is no specific role has been assigned of the accused in the present matter. Further more, the present matter is of the year 2010 and FIR came to be registered in the year 2021. Therefore, there is huge delay for registered FIR and there is no justifiable reason has been given for the same. Ld. Advocate for the accused further submitted that, the investigation has been completed and there is no purpose would be served to keep the accused behind the bar.

2. Say of Ld.APP was called. Ld APP objected the application and submitted that, application may be rejected as offence is of serious nature. The huge amount has been siphoned by the accused. The accused has abused his office. Ld. APP further submitted that, if the accused released on bail, he may tampered with prosecution evidence. Therefore, prayed for rejection of application.

3. I have gone through the submissions canvassed by the learned advocate for the accused. It is submitted by the Ld. Advocate for the accused that, the present case is of civil nature and based on documentary evidence which has been already presented before the court. He further submitted

The State of Maharashtra Vs. Mangaldas Vitthal Bandal

that, accused undertakes that he will not tamper with prosecution evidence after he released on bail. Moreover, there is no cogent evidence against accused. Moreover, there is no material on record to show that, the applicant misappropriated any funds of the bank.

4. I have gone through the record placed before me it discloses that, the accused has been booked for the offence punishable under section 420, 409, 465, 467, 468, 471, read with 120B of Indian Penal Code. Undoubtedly, the offence punishable under section 467 is punishable with imprisonment for life. The offences are of serious nature. Ld. Advocate for the accused in support of his oral contentions relied on the judgment of **H. B. Chaturvedi Vs. CBI Delhi High Court of Delhi at New Delhi Bail Appli.No. 572/2010**, wherein *it has been held in a catena of decisions, is not to be withheld as a punishment. Even assuming that the accused is prima faice guilty of a grave offence, bail cannot be refused in an indirect process of punishable the accused person before he is convicted. Furthermore, there is no justification for classifying offences into different categories such as economic offences and for refusing bail on the ground that the offence involved belongs to a particular category. It cannot, therefore, be said that bail should invariably of be refused in cases involving serious economic offences.* Ld. Advocate for the accused further relied on **Manoj Kumar Sood Vs. State of Zharkhand on 19th March, 2019** wherein it has been held that, *the criminal court exercising jurisdiction to grant bail/anticipatory bail, is not expected to act as a recovery agent to realise the dues of the complainant, and that too, without any trial.* He further relied on **State of Kerala Vs. Raneef Criminal Appeal No.3/2011** wherein it has been held that, *in deciding bail application an important factor which should certainly be taken into consideration by the Court is the delay in concluding the trial. Offen this takes several years, and if the accused is denied bail is ultimately acquitted, who will restore so many years of his life spend in custody? Is article 21 of the Constitution, which is most basic of all the*

The State of Maharashtra Vs. Mangaldas Vitthal Bandal

fundamental right in all Constitution, not violated in such case? of course this is not the only factor, but it is certainly one of the important factor in deciding whether to grant bail.

5. I have gone through the aforesaid authorities of Hon'ble Apex Court cited by the Ld. Advocate for the accused. Admittedly, while granting bail it is mandatory on the court to consider the nature and gravity of offence, possibility of accused absconded if released on bail and likelihood of the offence being repeated.

6. The gist of the prosecution case is that Rupendrakaur Haracharanpal Nanda have borrowed the loan of Rs.1,40,00,000/- and 70,00,000/- to purchase 50R area of Gat No.465 and 26R area of gat No.461 and 462 respectively. At the time of borrowing the loan the informant bank executed the mortgage deed of the said properties. Accordingly, vide Mutation Entry No.6587 and 6652 the name of the bank entered in other rights column in the records of right. Thereafter, the aforesaid person became defaulter due to non payment of installment and hence informant bank issued notices to them. Further, the informant bank initiated proceeding against them and accordingly on 31.01.2014 the competent court issued recovery certificate to the informant bank. It is further alleged that, the present accused was used to come in the bank with the accused Mangaldas Bandal. The payment slip was also brought by the present accused and he signed upon those banks slipss. Moreover, on perusal of the charge-sheet it appears that, the present accused was present alongwith the main accused Mangaldas Bandal in the bank during the loan transaction. It transpires that, the present accused signed the DD.

7. Ld. Advocate for the accused submitted that, the present accused is not beneficiary of the said transaction. Merely, he was present with the said accused in the bank. Therefore, mere presence in the bank will not be a

The State of Maharashtra Vs. Mangaldas Vitthal Bandal

crime. Admittedly, the presence of accused alongwith Mangaldas Bandal is not disputed. However, the possibility that the present accused had knowledge of the said loan amount can not be ruled out. Therefore, if the accused released on bail the chances of absconding and tamper with the prosecution witnesses can not be ruled out. The circumstance shows his presence and his knowledge in commission of offence. Moreover, if the accused released on bail then the possibility can not be ruled out that he may tamper with the prosecution witnesses. In the light of above discussion it is clear that, there is strong prima facie case against the present accused to cheat the bank by making the fabricated loan cases. Therefore, hold that it is not fit case of release the accused on bail. Therefore, I proceed to pass following order;

ORDER

The bail application of accused Rahul Vasant Takalkar is rejected.

Sd/-

(K. M. Mundhe)

Judicial Magistrate First Class.,
Ghodnadi (Shirur) Dist. Pune

Date : 23/08/2022.

The State of Maharashtra Vs. Mangaldas Vitthal Bandal**CERTIFICATE**

I affirm that the contents of this P. D. F. file Order are same word for word as per original Order.

Name of the Court	:-	K. M. Mundhe Judicial Magistrate First Class, Ghodnadi (Shirur) Pune
Name of the Steno	:-	M. S. Zade
Date of Decision	:-	23.08.2022.
Order signed by presiding officer	:-	23.08.2022.
Order uploaded on	:-	25.08.2022.