

ORDER BELOW EXHIBIT-89 IN R.C.C. NO. 204 OF 2020

01. This is an application filed by the accused for seeking bail for the offence punishable under Sections 420, 409, 465, 466 and 471 r/w 34 of I.P.C. against the accused.

02. It is submitted that, accused is in MCR. It is allegation that the present accused and co-accused misappropriated government fund. He is not directly involved in the present case. He is working as a Rojgar Sevak. On perusal of the FIR it reveals that, there is no specific role to this accused. He has falsely implicated in the said crime.

03. The investigation is completed. The charge-sheet is filed before the Court. The investigation relating to this accused is also completed. There is no need to keep behind the bar. There is no previous antecedent of this accused. He has ready to abide every condition imposed by this court. Hence, prayed to allow the application.

04. Say of IO is called. IO has submitted that, present accused has misappropriated the amount of Rs.1,17,70,424/- if the accused released on bail then he may pressurize the witnesses. He may tamper or hamper the evidence. Since, registration of FIR he is absconded. He has transferred the amount received from government to his account. The recovery of the amount is also necessary from this accused. Hence, prayed to reject the application

05. Ld. APP filed his say and submitted that, the investigation is in respect of this accused is necessary. Offence is serious. Accused has been absconded since registration of FIR. If bail is granted then accused may commit the same type of offence. He may tamper or hamper the

evidence. Hence, prayed to reject the application.

06. The Ld. Advocate for the accused submitted that, on the ground of parity the bail may kindly be granted. All documents are seized therefore there is no possibility of hampering or tampering the evidence. The State Government has created charge on the immovable property. He is ready to co-operate the investigating officer. The bank account has been seized by the I.O. He has some incurable disease. Therefore, he has right to take medical facility as per his choice. This accused is not the main accused. Other accused persons are enlarged on bail. Hence, prayed to allow the application.

07. Per contra, the Ld. APP for the State submitted that, the accused has main role in the present case. The accused has major involvement in the present case. The accused has appeared before this Court as his bail applications before the various court are rejected. There is possibility that he may tamper the evidence of the prosecution case. Sofar as the disease is concerned, the jailor can be directed to provide the medical facility. Hence, prayed to reject the application.

08. Perused the record. On perusal of the record it reveals that, the charge-sheet against this accused persons is also filed but at the time of filing of the charge-sheet the investigating officer has prayed to grant permission to file the charge-sheet under Section 173(8) of Cr.P.C.. It is also pertinent to note that, since inception accused is absconded. He has surrendered before this Court. Thereafter, he has filed this application.

09. Since registration of offence accused is absconded. Therefore, this conduct of the accused needs to be considered. Moreover, on perusal of the record role of this accused is that, the accused with other

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applicants in furtherance of their common intention forged document and represent the government in respect of works carried out under Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) and misappropriated the amount of Rs.1,17,70,424/-. The role of this accused is to register the names of labourer in the register and issue job cards. On perusal of the charge-sheet it appears that, some persons whose name has been registered are also shown as labourers under the MGNREGS. The amount paid by these labourers deposited in the account mentioned in the register. The accused has turned the money in his account. The investigation in respect of some job cards and in respect of recovery of the government money is not completed.

10. As the accused has been absconded since registration of offence, there is possibility that he may flee from justice. There is also possibility that he may tamper the evidence. The trial is not commenced. There is also possibility that he may pressurize the prime witnesses. It is also mentioned that, other accused are enlarged on bail therefore the benefit of rule of parity be given to this accused but some necessary investigation is pending against this accused. In such circumstances, it is not beneficial for the prosecution case or thorough investigation to release the accused.

11. During the argument it is also submitted that, accused has some incurable disease. The Ld. Advocate for the accused also produced the documents of the disease. As the accused is in MCR. I have called the report from the jailor. Jailor also submitted his medical papers. On perusal of the medical papers it is seen that, he has suffering from disease but it is not the condition of the accused that he cannot move from one place. The reason for grant of bail of this medical ground is not

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mentioned in the application. sofar as benefit of medical reason is concerned it cannot be given to the accused. The medical facility can be provided in jail. Considering the same, it is necessary to expedite the trial after the investigation. Hence, on the medical ground also, accused is not entitled for the bail. In view of the above discussion I found it appropriate to reject the bail application of accused. Hence, I pass the following order :-

ORDER

1. Application is rejected.
2. Jailor District Prison, Washim is directed to provide medical facility to the accused as per rule.
3. Issue letter to the Jailor, District Prison, Washim accordingly.

Place : Malegaon
Date : 13.10.2023

[Pravin U.Kulkarni]
J.M.F.C. (Court No.2) Malegaon
Distt. Washim

CERTIFICATE

I affirm that the contents of this P.D.F. file Order is same word to word, as per the original Order.

Name of the Stenographer : **Shivam B. Patange (L.G.)**

Court & Judge Name : PU.Kulkarni
Jt. C.J.J.D & J.M.F.C, Malegaon.

Date of Order : 13.10.2023

Order signed by the
Presiding Officer on : 17.10.2023

Order uploaded on : 17.10.2023