

ORDER BELOW EXHIBIT-45

(Passed on 09/03/2020)

1] Applicant/accused moved this bail application claiming regular bail in Crime No.1227/2017 registered with PS Awadhootwadi-Yavatmal for offence punishable under Sections 409, 420 of I.P.Code and Sections 3 and 4 of MPID Act.

2] Read the say. Heard learned Counsel Shri Sahil Pathan for applicant/accused and learned P.P. Mrs.N.N.Dave for the prosecution.

3] It is submitted on behalf of the applicant/accused that the applicant/accused is peace loving citizen having movable and immovable property at Wardha. He has no criminal past. He has not committed any offence whatsoever. He is innocent. It is submitted that the applicant/accused was Branch Regional Manager at Yavatmal and Chandrapur. The complainant has lodged report against accused Satish Kale, Rakesh Gojre, Diwakar Vaidya and others. PSO Awadhootwadi-Yavatmal arrested the above three accused and filed charge-sheet. During the investigation, Branch Manager Wani has stated the name of applicant/accused and create a false story against him. After investigation, Investigating Officer has arrested the present applicant/accused. It is further submitted that the police agency has falsely implicated the applicant/accused after two years. The applicant/accused has no concern with the alleged crime. Main accused Diwakar Vaidya has been released on regular bail by the

Hon'ble Bombay High Court, Bench at Nagpur. Hence, the applicant/accused deserve for rule of parity. The investigation in this crime is completed and nothing is to be recovered from the applicant/accused. Already accused Diwakar Vaidya has deposited the alleged cheating amount before the Court as per the order of Hon'ble High Court. Therefore there is no requirement of the custodial interrogation of applicant/accused. The applicant/accused is the only earning member of his family. The trial will not conclude in early time in future hence no purpose will be served to keep the applicant/accused behind the bars. Hence, prayed to grant him regular bail. He is ready to abide all the conditions if imposed upon him.

4] Learned P.P. strongly opposed the application by contending that the complainant lodged report against the applicant/accused and therefore offence is registered against him. On the assurance given by the applicant/accused the complainant has invested the amount in Shri Dhokeshwar Multi State Urban Co-operative Credity Society Ltd. After completion of the period of F.D., the complainant asked for refund of amount but the applicant/accused gave evasive answers and did not give the amount to the complainant. The complainant made repeated request for refund of amount but the applicant/accused and other accused did not pay the said amount to the complainant. During investigation, it reveals that the applicant/accused is involved in this crime and he committed criminal breach of trust. The

applicant/accused withdrawn total amount of Rs.21,85,000/- from the Chikhalgaon, Wani and Yavatmal branch. The investigation is in progress and inquiry is necessary as to how much amount is withdrawn by the applicant/accused from other branches situated at other places. It is also necessary to investigate as to how many persons have withdrawn the amount as per the say of applicant/accused. The applicant/accused dishonestly induced the complainant and others to invest the amount in the society and thereby cheated them. The custodial interrogation of applicant/accused is necessary. If applicant/accused released on bail then there is possibility of destruction of documents of the society and he may destroy the data in the society. It is also necessary to investigate as to where he kept the amount. The matter is serious one and public money is involved. Ground of parity is not applicable to the present applicant/accused. Hence, prayed to reject the application.

5] Considering the rival submission and the police paper on record it appears that Crime No.1227/2017 for offences punishable under Sections 420, 409 r/w 34 of I.P.Code came to be registered at PS Awadhootwadi-Yavatmal against the applicant/accused and other accused.

6] From the police paper, it appears that there is evidence about the involvement of present applicant/accused in the form of statements of the witnesses. It is true that my learned predecessor released the accused Rakesh Gojre. But on perusal of the order of

his bail, it reveals that it was observed that police did not arrest the accused Diwakar Vaidya and who is the key person of the crime. Record further shows that the Hon'ble Bombay High Court, Bench at Nagpur pleased to release the accused Diwakar Vaidya on the ground that he had deposited Rs.16,16,500/- before the Trial Court and as per the report he has received that much amount only. But in this matter, after submitting the charge-sheet against three accused persons police conducted further investigation and in further investigation police recorded the statements from which it transpired that present applicant/accused asked Dilip Gulhane, Suraj Bele, Sau.Warsha Turkar, Sau.Reena Kawade, Nana Deshmukh, Madan Labdi, Sau.Renuka Meghre and Sau.Mamta Kawade to invest the amount. Only on his say, those persons invested their hard money. It further shows that as per the prosecution case present applicant/accused being the Regional Branch Manager of District Yavatmal and Chandrapur he took and carried the cash amount of Rs.16,14,000/- from the Wani branch and Rs.5,45,000/- from the Yavatmal branch Balaji Society. As such, the present applicant/accused himself withdrawn total amount of Rs.21,85,000/-. The present applicant/accused has not deposited the said amount nor shown his willingness therefore, he is not entitled for the rule of parity.

7] From the police paper, it shows that there is a *prima facie* evidence against th applicant/accused for his involvement in this crime. As also, as per the prosecution case similar offence

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have been registered against the present applicant/accused at Chandrapur and other districts. The possibility cannot be ruled out that if applicant/accused released on bail then he will tamper with the prosecution evidence and will be abscond. Therefore, the applicant/accused is not entitled for bail. Hence, I proceed to pass the following order.

ORDER

Application is hereby rejected.

Dt.09/03/2020.

(M.Mohiuddin M.A.)
Additional Sessions Judge-2,
Yavatmal.