

ORDER BELOW EXHIBIT-46

(Passed on 02/06/2020)

1] Applicant/accused moved this second 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 Rajesh Chavhan 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 investigation of this crime is fully completed and nothing is to be recovered from the applicant/accused. The charge-sheet has been filed. It is further submitted that the main co-accused namely Dwakar Chintaman Vidya has been released on bail by the Hon'ble High Court. The custody of applicant/accused is no more required to the police hence there is no propriety to keep him behind the bars. Hence, prayed to released the applicant/accused on the ground of parity. The applicant/accused is the only earning member of his family. His old mother and he himself are suffering from heart disease. There is nobody to take care of his old mother. He is having small child

and wife and there is nobody to look after them. The offence levelled against the applicant/accused is not punishable for life or death sentence. 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 Credit 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 The applicant/accused withdrawn total amount of Rs.21,85,000/- from the Chikhalgaon, Wani and Yavatmal branch.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 after completion of investigation charge-sheet came to be filed and there is evidence about the involvement of present applicant/accused in the form of statements of the witnesses. 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] After investigation supplementary charge-sheet has been filed against the applicant/accused. It is submitted on behalf of the applicant/accused that from the Head Office one letter was issued wherein it is mentioned that present applicant/accused deposited the amount in the Head Office but during the investigation none of the responsible officer of the society had made statement before the police that entire amount withdrawn by present applicant/accused is deposited with the account of society and said amount is in the account of society and it was not mis-appropriated.

8] It is further submitted that the mother of applicant/accused is ill. In support of it, one certificate issued by Dr.Rajesh Sarode is placed on record. From the said medical certificate, it has come on record that she is having hyper tension and other disease and she was under treatment on 07/05/2020. From her medical papers, it cannot be said that she is having any serious ailment.

9] The applicant/accused is not entitled for the benefit of guidelines dated 25/03/2020 and 14/05/2020 for temporary bail because his case falls within the exception of bank fraud and major financial scams. Moreover, present application is not tenable because already on 09/03/2020 after filling the charge-sheet i.e. supplementary charge-sheet his bail application was rejected on merit.

10] The learned Counsel for applicant/accused is unable to show any change in circumstances to consider this bail application on merit. From the charge-sheet, it shows that there is a *prima facie* evidence against the applicant/accused for his involvement in this crime. As also, as per the prosecution case similar offence 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

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**M.P.I.D. Case No.2/2018
State -Vs- Satish & Ors.**

the following order.

ORDER

Application is hereby rejected.

Dt.02/06/2020.

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