

RCC No.112/2024

State Vs Mallikarjun Patil and Others

CNR No.MH-YA-190011142024.

Order below bail application at Exh-168.

The applicants, accused No. 1 Mallikarjun Baburao Patil and accused No.5 Pravin Dhanraj Handrale, seeking bail in connection with Crime No. 285/2024 registered with Police Station, Ralegaon for the offence punishable under Sections 420, 465, 468, 471 and 473 read with Section 34 of the IPC

2. The said accused had previously filed bail applications before and after the charge sheet, but both applications were rejected by this court. Now, for the third time, the accused have filed an application for bail in this case.

3. It is contention of applicant accused No.1 and 5 that, allegation of cheating and forgery against accused are baseless. As recovery is done, therefore nothing is left to recover or discover from them. Their custodial interrogation is not required for any purpose. Investigation against accused is completed. Therefore, no purpose will be served by keeping accused behind bar. It is further contended that, complainant and his father have also compromised the matter and filed pursis on record to that regard. He is ready to obey the conditions that may be imposed by the court while granting bail. It is further stated that, the accused No. 3 has been granted bail by the Hon'ble High Court of Bombay at Nagpur Bench. Therefore, the accused claims that they are

entitled to bail based on the principle of parity. Also, it is contended that, there is delay on the part of prosecution to conclude trial. Hence on the above grounds accused prayed for bail.

4. **Per contra**, the learned Special A.PP has filed a reply at Exh-184 opposing the bail application. He contends that the accused is involved in a serious offence of fraud and forgery. These charges are non-bailable and of a grave nature. He further asserts that the charge sheet clearly shows the accused's involvement in the crime. It is further stated that the accused committed fraud by creating forged documents to deceive the complainant. It is further stated that the investigation is still not complete. It is revealed during investigation that the accused fabricated 149 fake orders from various departments. There is also a likelihood that if released on bail, the accused may abscond or fail to appear for trial. Additionally, there is a possibility that he may commit a similar offence. Hence, on the ground of gravity of offence and for purpose of investigation and recovery, the prosecution has strongly urged to reject the bail application.

5. **The prosecution's case**, as per the report lodged on 24.07.2024 by the complainant Parag Mankar, is that he had appeared for an examination, for the post of Assistant Engineer in the Public Works Department, in January 2024. After the results, his name was placed on the waiting list, and he was called to the Mumbai for document verification. Accordingly, in April 2024, he went to Mumbai with his brother-in-law for document verification, where he met accused Nos. 1, 5, and 6. These accused told him that they would remove his name from the waiting list and provide him with an appointment order in consideration of Rs.21 lakh.

6. Relying on promise of accused, the complainant arranged Rs.18 lakh through his father and brother-in-law's bank accounts and transferred it to the accused. The accused gave him an appointment order, but later, he realized it was fake. When the complainant confronted the said accused, they told him that the original order would only be given after paying the remaining amount. Subsequently, the said accused took complainant to the Public Works Department office in Nagpur, where accused No. 2 met him and took him inside the office. There, accused No. 3, who introduced himself as "Yogesh," was sitting beside the Chief Executive Engineer's chair. He provided information about the post and showed appointment order with signature and seal, assuring the complainant that he would be appointed after making the payment. But later on, complainant realized that applicant accused and other co-accused in collusion defrauded him by issuing fabricated and fake appointment order.

7. Based on these facts, an FIR was registered at Ralegaon Police Station for aforesaid offences. During the investigation, accused Nos. 1 to 6 were **arrested between 6.8.2024 to 12.08.2024**, and it was found that accused No. 1 had transferred Rs.5 lakh out of the complainant's money to accused No. 7's bank account. Further, accused No. 7 transferred Rs.4 lakh to applicant accused No. 2's account, who in turn transferred Rs.1 lakh to accused No. 3's account. It was also discovered that accused Nos. 2 and 3, with the help of accused No. 4, prepared a fake appointment order. It was also found that, accused No. 3 impersonated a government officer and issued the fake order. During the investigation, cash amount was seized from accused No.1, 2, 3 & 7 and the C.P.U used for creating

fake orders was seized from possession of accused No.4, which contained 149 other forged orders.

8. On completion of investigation, the charge sheet against accused Nos. 1 to 6 came to be filed on 3.10.2024. Thereafter, Charges were framed against them on 21.12.2024. It also appears that, evidence of three witnesses including complainant and his father have been recorded. Later, a supplementary charge sheet against accused No. 7 was filed on 03.03.2025.

9. It is to be noted that, after filling charge sheet but before framing charge, the bail application which were filed by present accused had been rejected by this court, on the grounds the charges levelled against them are of a grave nature, the trial is yet to commence, the testimony of crucial witnesses has not been recorded and accused will pressurize material witnesses if released on bail. However, after that, the Hon'ble Bombay High Court, at Nagpur Bench in its order dated 27/02/2025 in Criminal Application (BA) No.85 of 2025 granted bail to accused No.3 Arvind Mohadikar and Hon'ble Additional Sessions Court vide its order dated 21.03.2025 passed in Cri. Bail Application No. 4/2025 granted bail to accused No.4 Rahul Rangariya. It is to be noted that, the Hon'ble Sessions Court have also granted bail to accused No.6.

10. It is argued by learned advocate of applicant accused that, after rejection of bail of accused, there occurred substantial change in circumstances such as Hon'ble High Court and Hon'ble District and Sessions Court Yavatmal granted bail to accused No. 3 and accused No.4, who are one of co-accused and played vital role in alleged crime. Further, the key witnesses i.e complainant and his father have testified. Moreover, a settlement has been reached between the complainant, his

father and the accused, and a joint compromise pursis has also been filed in this case. Therefore, it is argued that, as accused No. 3 and 4 who had played vital role have been granted bail by higher court then on the ground of parity applicant accused also entitled for bail. It is further argued that, since the main witnesses have already been examined, keeping applicant accused in jail for a longer period is not justified. Additionally, it is submitted that applicant accused has been in jail since last seven months and that although the charges have been framed, more than three months have passed, and the prosecution evidence has still not been completed. It is submitted that, the delay in the trial is not due to accused. Therefore, it is argued that, as per the provisions of Section 480(6) of B.N.S.S also present accused are entitled for bail.

11. It is further argued that, the charge sheet has already been filed, and no further investigation is pending against present accused. In such circumstances, keeping them in jail would not be justified. It is also submitted that, none of the offences charged against accused are punishable with life imprisonment or the death penalty, in fact, none of the offences carry a sentence of more than ten years. Therefore, on the ground of parity, examination of material witness and on the ground of delay in trial the applicant accused crave for release on bail.

12. In support of his submission learned advocate of accused relied in the case of **Sanjay Chandra vs. CBI (2011) ALL SCR 2939** wherein the Hon'ble Supreme Court, laid down the principle that bail is the rule and jail is the exception, emphasizing that detention should not be punitive. Further, learned advocate of accused relied on the principles laid down by Hon'ble Supreme Court in **Satender Kumar Antil vs. CBI (2021) ALL MR (Cri) 4330 (SC)**, particularly the emphasis on the

presumption of innocence and the need to avoid pre-trial detention as punishment. Further, accused relied in **P. Chidambaram vs. Directorates of Enforcement**, (2020) ALL SCR (Cri) 1068, wherein the Hon'ble Supreme Court reiterated that bail should be granted unless there are compelling reasons to deny it, such as the risk of the accused absconding or tampering with evidence. Also, in **Arnesh Kumar vs. State of Bihar** (2014) ALL SCR 2542, where the Hon'ble Supreme Court laid down guidelines to prevent unnecessary arrests and detention in cases where the offense is punishable with imprisonment of seven years or less.

13. *Contrary*, it is argued by learned Special A.P.P that, as the previous bail application of both accused have been rejected therefore there is no change in circumstances to file present bail application. Further, there is direct involvement of accused in alleged fraud and forgery. It is further argued that, offences levelled against accused is serious and grave. Hence accused are not entitled for bail.

14. Heard both sides. Perused application, say and record. I have also gone through the case laws on which learned advocate of accused and learned APP relied.

15. Notably, there are grave allegations of cheating and forgery against accused. Admittedly, pre-chargesheet and post chargesheet bail applications filed by accused were rejected by this court and this is third time accused crave for release on bail. It is pertinent to note that, the learned Special A.P.P opposed the bail application mainly on the ground that, as this court has previously rejected the bail applications of both the accused, therefore without significant change in circumstances, successive bail application cannot be entertained. It is submitted that, there is no change in circumstances to file the present bail application. In

support of his submission, he relied on Judgment of Hon'ble Supreme Court in the case of ***Virupaksh Gouda and another Vs State of Karnataka, AIR 2017 SC 1685.***

16. I have carefully gone through the Judgment of Hon'ble Supreme Court in the case of ***Virupaksh Gouda and another Vs State of Karnataka.*** In that case, the appellant's pre-charge sheet bail application was rejected by both the Sessions Court and the Hon'ble High Court. Subsequently, the appellant filed another bail application before the District and Sessions Court post the filing of the charge sheet. This application was also rejected by the Sessions Court, by the Hon'ble High Court, and finally, by the Hon'ble Supreme Court through a Special Leave Petition. In a peculiar turn of events, despite no substantive alteration in circumstances of the case, the appellant's third bail application was granted by the Sessions Court. This grant of bail occurred despite the prior rejection of the appellants bail application by Hon'ble Supreme Court through a Special Leave Petition, and in the absence of any discernible change in factual matrix of the case. In light of these circumstances, the Hon'ble Supreme Court, in rejecting the appellant's bail application, held that a change in circumstances could not be asserted without the emergence of extraordinary circumstances.

17. It is imperative to note that the present case differs significantly from the facts of aforementioned case before Hon'ble Supreme Court. In this instance, while the both accused's post-charge sheet bail applications were indeed rejected by this court, no higher court has rendered a similar dismissal, nor is any such application pending before a higher court, as submitted by the accused's learned counsel. Furthermore, subsequent rejection of the applicant accused's bail

application, the Hon'ble Bombay High Court at Nagpur Bench granted bail to accused no.3 vide its order dated 27.02.2025 in Criminal Application (BA) No.85 of 2025 and the Hon'ble Sessions Court, Yavatmal granted bail to accused no.4 vide its order dated 21.03.2025 in Criminal Bail Application No.4 of 2025. Additionally, the testimonies of three material witnesses including the complainant and his father have been recorded in this case post the rejection of the both accused's bail applications. As after rejection of accused's bail applications by this court, the Hon'ble High Court and Hon'ble Sessions Court have granted bail to co-accused i.e accused no. 3 and 4 and as after that material witnesses have been examined, therefore it can be said that those are material changes in circumstances to consider the present bail application of accused. Consequently, the contention of the learned Public Prosecutor that there has been no change in circumstances warranting the present bail application is devoid of merit.

18. Notably, the Hon'ble Supreme Court, in the aforementioned case, did not impose a blanket prohibition on the filing of successive bail applications. Moreover, it is held by Hon'ble Supreme Court that, filling successive bail application by accused is his statutory right. In view of that, it is my considered opinion that the circumstances of this case have indeed undergone a material change, thereby justifying the consideration of the present bail application. Therefore, there is no force to the submission of learned APP that, present bail application cannot be entertained as there is no change in circumstances. Therefore, I am taking up the present bail application for disposal on merit.

19. The accused's primary ground for seeking bail rests on the principle of parity. It dictates that, individuals similarly situated should be

treated alike unless there are compelling reasons to differentiate. The learned advocate of accused highlights the fact that, accused No.3, who is alleged to have played a similar or even more significant role in the alleged offence, has been granted bail by the Hon'ble Bombay High Court at Nagpur Bench. Additionally, he points out that, accused No. 4 who also alleged to have played more significant role in the alleged offence have granted bail and the accused No. 6 have also been granted bail by the Hon'ble District and Sessions Court Yavatmal, further supporting his claim of parity. Therefore, he argues that, in such circumstances both accused are also entitled for bail on parity.

20. It is pertinent to note that, accused No. 1, 5 and 6 alleged to have played a significant role in the initial inducement of the complainant in Mumbai, convincing him to pay Rs.21 lakh. They have received money from fraud. Accused No.2 allegedly met the complainant in Nagpur and he along with accused No.1, 5 and 6 facilitated complainants' interaction with accused No.3. The role of accused No. 3 (who is released on bail by Hon'ble High Court) was that, he allegedly impersonated a government official and gave forged document i.e fake appointment order to the complainant in Nagpur and thereby convincing him to pay more money. He has also received money from the fraud, just like accused No. 1, 2 and 5. Further, according to the prosecution accused No. 4 (who is released on bail by Hon'ble Sessions Court) prepared of fake orders in his computer with the help of accused No. 2 and 3. Accused No. 6 (who is released on bail by Hon'ble Sessions Court) was the one who was along with accused no. 1 and 5 in Mumbai, when the complainant was first contacted and induced to pay money.

21. On considering the prosecution's case, prima-facie, the role of accused No.1 & 5 (present applicants), accused No.2 and accused No.3 (who is released on bail by Hon'ble High Court) is appears to be similar. They all involved in the later part of the fraud in Nagpur and all of them received money from fraud. **Moreover, the role of accused No.3 and 4** appears to be more significant as accused no.3 allegedly impersonated a government official and presented forged documents to the complainant in Nagpur and accused No.4 prepared forged document in his computer with the help of accused No. 2 and 3. Since the Hon'ble High Court and Hon'ble Sessions Court have granted bail to accused No.3 and accused No. 4, in such circumstances it would be unfair to keep applicants accused in jail, unless there is a strong reason. Notably, the prosecution has not given a strong reason why applicants accused should be treated differently. Therefore, rule of parity is applicable to applicants accused.

22. The accused's another ground for seeking bail rests on the delay in the trial as mandate by Section 480(6) of B.N.S.S, 2023. The advocate of accused contends that Section 480(6) mandates that if the trial of a person accused of an offence triable by a Magistrate Court is not concluded within sixty days from the first date fixed for taking evidence, the accused shall be released on bail. The learned advocate of the applicants accused submitted that, accused have been in custody for over seven months. It is submitted that, in the present matter charges have been framed on 21.12.2024, and only three witnesses have been examined. He further argues that the trial has been significantly delayed, exceeding the statutory time limit, and that the delay is solely due to the prosecution's failure to produce witnesses. He highlights that despite summons and warrants being issued, the prosecution has failed to

examine further witnesses since last months. He asserts that accused's prolonged pre-trial detention violates their fundamental right to a speedy trial. He emphasizes that accused have fully cooperated with the court and that the delay is not attributable to any action on the part of both accused.

23. Contrary, regarding the delay, the learned APP argues that the prosecution has made diligent efforts to produce witnesses, but witnesses are not co-operating, and that the delay is not intentional.

24. The crux of learned advocate of accused's argument rests on the provisions of Section 480 (6) of B.N.S.S, 2023. This section, a crucial safeguard against undue detention, mandates that in cases triable by a Magistrate, if the trial is not concluded within sixty days from the first date fixed for taking evidence, the accused shall be released on bail. This provision is not merely a procedural formality, but a reflection of the fundamental right to a speedy trial.

25. In the present case, the charges against the accused have framed on 21.12.2024. More than three months have elapsed since then, and yet, the prosecution has managed to examine a mere three witnesses. The record clearly indicates that the delay is not attributable to applicants accused. The prosecution's failure to examine further witnesses, despite summons and warrants, constitutes a clear violation of the statutory time limit. The submission of learned A.P.P that witnesses are not co-operating is not a sufficient reason to deny bail under Section 480(6). The prosecution has a duty to ensure the timely production of witnesses. Therefore, prosecution has failed to adhere to the statutory mandate of Section 480(6). Therefore, mandate of Section 480(6) of B.N.S.S, 2023 is directly applicable to the present case.

26. The learned A.P.P also objected the present bail application on the grounds that, investigation is still in progress and therefore the custodial detention of accused is necessary for its completion, further there is a chance of pressurizing by the accused to material witnesses if released on bail and on the ground of seriousness of the economic offenses, particularly fraud and forgery.

27. Contrary, the applicants counsel argues that eight months have passed since the filing of the charge sheet, but the prosecution has failed to specify what investigation remains pending against accused. He asserts that there are no recoveries or discoveries pending against both accused, indicating that the investigation is effectively complete. Therefore, he submits that, prosecution's claim of ongoing investigation lacks substance and does not justify continued detention. The applicants' advocate further argues that the material witnesses, including the complainant and his father, have already been examined, therefore, the question of pressurizing material witnesses does not arise. He further argues that, though there is serious charges of cheating and forgery levelled against accused, but none of the offenses are punishable with death or life imprisonment, or for more than seven years. He highlights that the complainant, his father and accused have arrived at compromise and accordingly the filed joint pursis therefore he submits that, the fact of compromise goes to the roots of the matter and cannot be overlooked at the stage while deciding bail application.

28. It is pertinent that, though learned APP took objection to grant bail on the ground that, the investigation is ongoing, however, mere assertions to that regard without specific details are insufficient. In present case, eight months have elapsed since the filing of the charge

sheet, but the prosecution has failed to articulate what investigation remains pending against accused. Further, record shows that, cash amount has already been recovered and seized from accused therefore nothing remain to recover or discover from accused. The absence of any pending recoveries or discoveries from accused and non-providing specific detail by prosecution regarding necessity of accused for custodial interrogation strongly suggests that the investigation is completed.

29. Further, though APP shown his anxiety in respect of tampering of material witnesses by accused if they released on bail, but that allegation of witness tampering is not supported by any material. Moreover, in the present case, the material witnesses, including the complainant and his father who are victims, have already been examined. Therefore, the risk of the accused pressurizing these witnesses is significantly reduced.

30. So far as regarding to the seriousness of the offence, no doubt the allegation of fraud and forgery are grave, but at the same time it is necessary to consider the nature and severity of the punishment while deciding the bail application. It is to be noted that, the offences charged against the accused do not carry life imprisonment or the death penalty. The maximum punishment for these offenses is less than ten years. Furthermore, in present case already material witnesses including the complainant and his father who are victims are examined by prosecution. The record shows that, the complainant, his father and accused moved joint compromise pursis, but being the offences non-compoundable compromise was rejected. Though compromise was rejected, but that aspect is very vital and goes to the root of the matter and cannot be overlooked at this stage while deciding bail application.

31. Therefore, after a meticulous examination of the prosecution's objections, I find them to be devoid of sufficient legal and factual grounding to justify the continued pre-trial detention of accused. The prosecution's assertion of an ongoing investigation, unsupported by any specific articulation of pending investigative steps, is rendered untenable by the lapse of eight months since the filing of the charge sheet and the absence of any pending recoveries or discoveries.

32. Similarly, the apprehension of witness tampering, in light of the fact that the material witnesses, including the complainant and his father, have already been subjected to examination, appears to be a hypothetical fear rather than a concrete threat.

33. Hence considering the ground of parity, delay in the trial, mandatory provisions of Section 480(6) of B.N.S.S, completion of investigation against accused, examination of material witnesses and nothing material is required to be seized or recovered from both accused, I am of the view that, accused are deserve bail due to above change in circumstances though previous bail application of accused were rejected by this court. Eventually, application needs to be granted however, by putting certain conditions. Resultantly, I pass the following order.

ORDER

1. Application is allowed.
2. The applicants **accused No. 1 Mallikarjun Baburao Patil and accused No.5 Pravin Dhanraj Handrale** be released on bail on executing a P.R. bond in the sum of **Rs.1,00,000/- with one solvent surety each**, in the like amount, on the following terms and conditions:

- i.) They shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of present case.
 - ii.) They shall not tamper with the prosecution witnesses.
 - iii.) They shall attend the Police Station Ralegaon once in month i.e on 1st day of every month between 10.AM to 1 PM, till conclusion of trial.
 - iv.) They shall attend all court hearings regularly falling which their bail liberty shall be treated as cancelled.
 - v.) Accused not to indulge in any illegal activities or in committing the offence like nature.
 - vi.) They shall cooperate with any further investigation, if required.
 - vii.) They shall surrender their passports, if they having, to the court.
3. The accused and surety to provide their mobile numbers to the court.
4. The contravention of any of the condition imposed by this court would lead to the cancellation of bail.

Dated: - 29.03.2025
Place: - Ralegaon.

(D.R. Kulkarni)
Judicial Magistrate F.C.
(Court No.02), Ralegaon.