

MHKO050064062024

RCC No.521/2024



State of Maharashtra Vs.
Mahanmad Shabuddin Pendhari

ORDER BELOW EXH.90

The present application has been placed on behalf of accused No.12 namely **Popat Murlidhar Patil** filed under section 437 of Code of Criminal Procedure, 1973 to enlarge him on bail on the ground of parity and change in circumstances. Learned APP has resisted the application by filing his say. Perused the application and say. Heard Learned Advocate appearing on behalf of accused and learned APP for the state.

2. The accused came to be arrested in crime No.382/2024 registered with Ichalkaranji Police Station, Dist. Kolhapur for the offences punishable under section 420,407,409,465,467,468,471 read with 34 and 201 of Indian Penal Code. According to the prosecution, the accused had obtained certain false stock receipts and on that basis he has obtained loan from Sangli Urban Co-operative Bank, Islampur. Advocate of the accused has argued that, in the present crime after investigation charge-sheet is filed. Therefore, physical interrogation of present accused is not required. Moreover, accused is in jail since last 7 to 8 months. In this crime, there is change in circumstances as charge-sheet is filed, therefore subsequent bail application is filed. Advocate of the accused has further submitted that, accused No.10 has approached to Hon'ble High Court for bail. Hon'ble Bombay High Court has granted him bail subjecting to deposit loan amount with bank. The copy of order is produced in the record for perusal. As accused No.10 is released on bail by Hon'ble High Court on the conditions, the present accused is also ready to fulfill the same conditions

therefore, the ground of parity be considered in respect of accused No.12. Present accused is ready to abide all conditions the court which may impose. During argument Advocate for accused has relied on the following judgments:-

A] *Sanwal Das Gupta Vs. State of U.P. & Anr. reported in 1985 SCC Online ALL 310. and*

B] *Uma Shanker & Ors. Vs. State of U.P. & Ors. in Cri. Misc. Case No.1204 of 2001 before Hon'ble Allahabad High Court.*

Therein mentioned that Magistrate has power to grant bail to the accused under the provisions of sections 437(1) of Code of Criminal Procedure on parity ground.

C] *Nirmala Second Bail Vs. State of U.P. in Cri. Misc. Bail Application No.12363 of 2021 before Hon'ble Allahabad High Court.* And

D] *Bajrang Gupta Vs. CBI in Bail Application N.2497 of 2015 before Hon'ble Delhi High Court.*

In these citations Hon'ble Lordship has discussed grounds of parity- If case of accused before court is identical, similar to the another accused on the fact and circumstances who has been bailed out then this ground be consider to that such accused while considering ground of parity.

E] *Sahal & Ors. Vs. State of Maharashtra in Bail Application No.1502 of 2020 before Hon'ble Bombay High Court (Aurangabad Bench.).*

Therein, Hon'ble Lordship has granted bail to co-accused on the ground of parity after considering role of co-accused.

3. Through this application the accused No.12 is seeking bail on the ground of parity. In the present crime, accused No.10 is released on the bail by the Hon'ble Bombay High Court. Before I consider the ground of parity, it is required to take into consideration what is principle of

parity. The principle of parity in the bail case is legal doctrine that ensures equal treatment of similar situated accused persons in the criminal case. It means that, if one accused has been granted bail, then other co-accused with similar role, involvement and circumstances and also be granted bail unless there is special reasons to deny it. The Court while compare the role of accused and decide whether similar treatment should be given or not. If co-accused played more active or graver role in the offence, then parity may not apply.

4. While entertaining present application, seriousness of offence, in which manner offence has been committed, role played by the present accused in the offence in question and prima facie involvement of accused need to be taken into account. Form the police report and charge-sheet it prima facie appears that present accused is the person who has allegedly committed the act by obtained false stock receipts and on that false and forged stock receipts, he has obtained the loan from the bank. The role of present accused is appears to be serious one. The present offence is economic offence. In various judgments of Hon'ble Apex Court has observed that economic offences having prior preparation of conspiracy and involvement of huge loss of public money in which viewed seriously and considered as grave offences affecting economy of country as a whole and serious threat to financial health of country. Considering the said aspect, the offences in question cannot be treated as trivial in nature where as the same need to be branded as serious one. I do not undermine the seriousness of the alleged crime. Unfortunately, almost Thirteen Crore amount have been lost by bank in question which was kept by common people.

5. The loan amount obtained by the accused No.12 is yet to be recovered. There is ample evidence gathered against accused during investigation. The Advocate of accused has submitted that, accused be released on the ground of parity as accused No.10 released by Hon'ble Bombay High Court. As I discussed above the bail should not be granted solely on parity if accused played greater role in the crime. Judicial discretion must not be exercised in each case. The present accused has obtained false and forged stock receipts and obtained loan from the bank by using the same. Though the role of accused No.10 & 12 are same, however, gravity of offence is serious. Moreover, Hon'ble High Court has granted bail of accused No.10 by considering all reasons. Therefore, the same court will decide whether accused No.12 is entitled for equal treatment or not. After gone through the citations filed by the Advocate of accused on the point of parity, it appears that in that case, first bail application was decided by Hon'ble High Court and another bail application on the ground of parity was also decided by the same Court. Therefore, the citations field by Advocate of accused is not applicable in this case.

6. Hence, considering above all facts and circumstances, the present offence is economic offence. Releasing the present accused on bail would tantamount to encourage him to repeats the offences of similar nature. I must mention here that his applicability of parity, offence is economic and serious one. Considering the gravity of offence this is not fit case to apply principle of parity. The present accused has graver role in the offence, considering the seriousness of offence, the manner in which the offence has been committed, active participation of offence, accused act obtaining of false and forged stock receipts to get loan, therefore, the

accused is not entitle to grant of bail on the ground of parity. Present application deserves for rejection. I proceed to pass following order :-

: **ORDER** :

Application is rejected.

Ichalkaranji
Date :-04/07/2025.

(Archana M. Gaikwad)
Judicial Magistrate, F.C.,
(Court No.3), Ichalkaranji.