

CNR No. MHCC02-000359-2022



IN THE COURT OF SPECIAL JUDGE,
(CONSTITUTED UNDER THE PREVENTION OF CORRUPTION ACT, 1988)
FOR GREATER BOMBAY AT MUMBAI

BAIL APPLICATION NO. 20 OF 2022

IN

ACB REMAND APPLICATION NO. 21 OF 2022

Shri. Anil Madanji Jadhav,)
Age:52 years, Occupation:Service,)
Residing at Room No. 11, Y-1 Building,)
Government Officers' Quarters,)
Ali Yavar Jung Road, Bandra (East),)
Mumbai-400 051.) Applicant/Orig. Accd.

Versus.

The State of Maharashtra)
(At the instance of A.C.B., Mumbai)
vide C. R. No. 1/2022).) Respdt./Complainant

Mr. Niranjana Mundargi, Ld. Advocate for the applicant/orig. accused.
Mr. Pankaj Chavan, Ld. A.P.P. for the State/Respondent/ACB.

**CORAM: H.H. THE SPECIAL JUDGE
UNDER P.C. ACT, 1988
SHRI. S. P. NAIK-NIMBALKAR,
(C.R. No. 46).**

DATED: 12th January, 2022.

:ORAL ORDER:

The applicant/original accused Shri. Anil Madanji Jadhav is

prosecuted for the offence punishable u/sec. 7 of the Prevention of Corruption Act, 1988. He is in Judicial Custody (J.C.) since 10/01/2022. The present application is filed by the applicant/accused u/sec. 439 of the Code of Criminal Procedure, 1973 ("the Cr.P.C." for short) for releasing him on bail.

2. **Brief facts pertaining to the prosecution case** can be stated as follows :-

a. The first informant Mr. Deepak Shrichand Tekchandani is a partner in Tender Skin International Cosmetology Academy. He had applied for approval to conduct various courses in the said academy with the office of Maharashtra State Skill Development Society ('M.S.S.D.S.' for short). The applicant/accused is the Chairman of M.S.S.D.S. The first informant was granted approval in the month of July 2021, but for final approval, the applicant/accused demanded bribe of Rs. 5,00,000/- from the first informant.

b. The verification procedure of demand was carried on by the Anti-corruption Bureau on receipt of the complaint. On 07/12/2021, the first informant went to the ACB office and submitted a written complaint. On its basis, the verification was done on 09/12/2021, 13/12/2021, 14/12/2021, 20/12/2021 & 29/12/2021. The prosecution relied on the demand verification dated 14/12/2021. On 14/12/2021, in the office of applicant/accused, during discussion the applicant/accused had demanded Rs. 5,00,000/- by showing five fingers of his right hand in order to grant final approval for the first informant's said academy. The first informant said that "five is very big". To which the applicant/accused replied that "five is not big" and further said that "it is a big opportunity".

c. On 04/01/2022, the first informant had messaged the applicant/accused on his phone saying "Happiness Morning". To which at around 11.26 a.m., the first informant had received a whats-app call

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from the applicant/accused. He was called to meet the applicant/accused in his office. Thereafter it was informed to the ACB and accordingly arrangement for the pre-trap was done. The first informant did not have Rs. 5,00,000/-. The first informant had arranged Rs. 12,000/- from his bank account and ACB Officer/Investigating Officer Smt. Supriya K. Nate had arranged Rs. 4,88,000/- fake toy currency notes as bribe amount.

d. The first informant and panch Shri. Rajendra Raut went to the office of applicant/accused and the Trap Unit had surrounded nearby the office. The first informant had removed three envelopes containing of total Rs. 5,00,000/- cash from his left side pant's pocket and kept it on the table. The applicant/accused had picked those envelopes and kept it in the left drawer of table. The first informant upon asking about the final approval on the pending file, the applicant/accused had informed him that the final approval of the pending file of first informant will be done till Friday. Thereafter the first informant came out of the office and gave missed call as a signal on the phone of Police Officer, as per plan. Thereafter immediately the Trap Unit of ACB raided the office and arrested the applicant/accused and took him into custody along with the bribe money.

e. On 05/01/2022, the FIR bearing C.R. No. 1/2022 came to be registered with the ACB, Mumbai against the applicant/accused for the offence punishable u/sec. 7 of the Prevention of Corruption Act, 1988. Subsequently during the search at the office of applicant/accused and at his house, the property pertaining to Rs. 2,28,100/- cash, two laptops with chargers, twenty-six pen-drives, four hard-disks, Rs. 79,63,500/- cash, 1.572 kg. of gold & jewellery and 1.500 kg. of silver, totalling to worth of Rs. 1,73,34,765/- respectively, came to be seized by the ACB.

3. The applicant/accused was produced before this Court on 05/01/2022 and remanded to Police Custody till 07/01/2022, which was again extended till 10/01/2022 and as he was tested Covid positive during the Police Custody, he was taken into Judicial Custody on 10/01/2022.

4. The **grounds** on which the bail is preferred by the applicant/accused may be listed in short as follows :-

a. The applicant/accused is innocent and has been falsely implicated in this case. There is no substantial material or independent witness to support the case of prosecution. The verification was carried out on 14/12/2021 and thereafter about 22 days' later, the alleged trap was laid. There is no explanation/justification pertaining to the delay of 22 days in filing the FIR, caused by the ACB from the date of verification and later suddenly on 04/01/2022, they laid a trap on the applicant/accused, which suggests malafides on the part of ACB.

b. It is further submitted that the ACB has virtually completed the investigation and seized all the alleged material, which they purportedly relied upon against the applicant/accused in the alleged commission of crime. The further custody of applicant/accused is unwarranted. Sufficient Police Custody Remand (P.C.R.) of six days has already been given to the applicant/accused. The applicant/accused undertakes and is ready & willing to co-operate with the ACB in investigation, if released on bail.

c. The applicant/accused has no criminal antecedents and is residing on the given address and has roots in Mumbai & India. The applicant/accused is 52 years old and came to be tested Covid positive during the P.C.R. He needs to be home quarantined and he will co-operate with the ACB in investigation once the home quarantined period is over. The applicant/accused needs proper medical treatment and hence, he be released on bail. The investigation is virtually over and the

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applicant/accused has co-operated the Investigating Agency during his P.C.R., therefore there is no further need of custodial interrogation. The applicant/accused will not abscond, tamper the evidence or influence the witnesses, if released on bail. He is a reputed person in the society having family of wife and children, who are dependent on him. Hence, on all these grounds, it is prayed that the applicant/accused be released on bail.

5. Notice was issued to the State. Ld. A.P.P. Mr. Pankaj Chavan has appeared for the State/ACB and submitted the reply of Investigating Officer Smt. Supriya K. Nate dated 12/01/2022.

6. As per the **reply of prosecution**, they have objected the bail application of applicant/accused on the grounds as follows :-

a. The investigation is at preliminary stage and detail investigation is yet to be done. The applicant/accused is highly educated and high-handed person, holding important post in Maharashtra Government and therefore, the magnitude of this offence is very large. Therefore, if the applicant/accused is released on bail, it would adversely affect the investigation in progress. The applicant/accused will pressurize the first informant and direct witnesses of this crime, if released on bail.

b. During the house search of applicant/accused, total amount of Rs. 79,63,500/- cash, 1.572 kg. of gold & ornaments worth Rs. 74,81,745/-, silver ornaments of 7.500 kg. worth Rs. 4,65,000/- and total property along with household furniture worth Rs. 1,73,34,765/- is found. So also in the office of applicant/accused, an amount of Rs. 2,28,100/- is found. No explanation about this seized amount is given by the applicant/accused during P.C.R.

c. The important documents pertaining to this crime are not

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seized from the office of applicant/accused. There is possibility that he would destroy this evidence, if released on bail. The details of this offence are yet to be collected from the office of applicant/accused and if he is released on bail, he would influence the other public servants. The applicant/accused may flee from Mumbai and would not be available for further investigation. The statements of witnesses are yet to be recorded and he may pressurize them. Hence, it is submitted to reject the bail application of applicant/accused on all these grounds.

Submissions :-

7. Heard both the sides.

8. Ld. Advocate Mr. Niranjan Mundargi for the applicant/accused has submitted along with the lines of his contentions in the bail application. He has additionally submitted that the investigation is not in primitive stage. The applicant/accused is under suspension, therefore there is no connection of the applicant/accused with his office at present. The applicant/accused is ready to undertake and comply with any condition including not to visit his office and also to attend the concerned Police Station, once his quarantine period is over.

It is further submitted by Ld. Advocate Mr. Niranjan Mundargi for the applicant/accused that the cash amount and the articles, allegedly recovered, are not connected with the prime allegation of Section 7 of the Prevention of Corruption Act, 1988. Till today, no offence other than Section 7 of the Prevention of Corruption Act, 1988, is invoked against the applicant/accused and for applicability of Section 13(1)(e) of the Prevention of Corruption Act, 1988, preliminary enquiry is necessary to be done and the applicant/accused would join the preliminary enquiry after his

quarantine period.

It is also submitted by Ld. Advocate Mr. Niranjan Mundargi for the applicant/accused that this is not the case of disproportionate assets and so far as the allegations in the complaint are concerned, investigation is over and no purpose would be served by keeping the applicant/accused in jail hereinafter. On all these grounds, he has prayed to release the applicant/accused on bail.

9. *Per-contra*, Ld. A.P.P. Mr. Pankaj Chavan for the State/ACB has submitted that the quantum of cash amount as well as gold & silver ornaments and the electronic gadgets recovered from the house as well as the office of applicant/accused, is very large. There is no explanation given by the applicant/accused pertaining to the seizure. The entire facts pertaining to the commission of this offence, are not yet revealed. The documents are not entirely collected. They are associated with the office of applicant/accused, where he was the Head of Office. Therefore, there is every possibility that he may influence the investigation in progress and would flee from the justice. Hence on all these grounds, Ld. A.P.P. Mr. Pankaj Chavan for the State/ACB has prayed to reject the bail application of applicant/accused.

10. The Investigating Officer Smt. Supriya K. Nate is present today before the Court along with the case-diary and has also submitted in tune with the submissions of Ld. A.P.P. Mr. Pankaj Chavan for the State/ACB. The gist of submissions of prosecution is that the investigation is in bud and it may be hampered by release of applicant/accused on bail.

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11. In view of the above rival facts, the following points arise for my consideration and I have given my findings against each of them for the reasons recorded below :-

<u>Points</u>	<u>Findings</u>
(1) Whether the applicant/accused is entitled to be released on bail u/sec. 439 of the Code of Criminal Procedure, 1973?	.. In the negative
(2) What order ?	.. As per final order

REASONS

As to Point No. 1 :-

12. I have perused the bail application as well as the case-papers produced by the Investigating Officer Smt. Supriya K. Nate. I have also given thoughtful consideration to the rival submissions of both the sides.

13. While deciding the bail application, it is well settled that the Court would not endeavor to decide the guilt or innocence of the accused for the offences. However, the complicity of accused pending the investigation, so also considering the nature and gravity of offence *vis-a-vis* the criminal antecedents of accused and possibility to influence the investigation, are some of the factors, which would have to be considered while deciding the bail application.

14. The F.I.R. dated 05/01/2022, the verification, pre-trap & post-trap panchanamas as well as the investigation papers suggest that *prima-facie* there are reasonable grounds to believe that the

accusation against the applicant/accused is well-founded for the offence u/sec. 7 of the Prevention of Corruption Act, 1988. The case of demand and acceptance of bribe amount by the applicant/accused, who is a public servant, from the first informant is detailed and substantiated in the police papers *prima-facie*.

15. The nature and gravity of offence is very large. The demand of bribe amount of Rs. 5,00,000/- and acceptance of the same by the applicant/accused is seen through the police papers *prima-facie*.

16. Ld. Advocate Mr. Nirnajan Mundargi for the applicant/accused is right while submitting that no case of disproportionate assets u/sec. 13(1)(e) of the Prevention of Corruption Act, 1988, has been applied by the police against the applicant/accused as of now. However the large quantum of seizure of several gold & silver ornaments and electronic gadgets including hard-disks, pen-drives & laptops, is necessary to be considered. So also the seizure of cash amount to the tune of Rs. 79,63,500/-, is also necessary to be considered.

17. The investigation at this juncture is not completed. As per the Remand Report dated 10/01/2022, it was mentioned that the applicant/accused has tested Covid positive and was admitted to St. George Hospital, therefore, he was taken into Judicial Custody. This would not mean that the entire investigation with the applicant/accused in this crime is over. This is so, because the magnitude of offence is necessary to be taken into consideration.

18. It is repeatedly mentioned by the prosecution on record that no explanation pertaining to the amount, which was accepted by the applicant/accused, is furnished by him. Therefore the nexus of accepted amount with any other persons, if any and further facts, if any, of the demanded and accepted amount, are yet to be unrevealed. This can only be done with the help of applicant/accused and he being in custody, without having an opportunity to influence the ongoing investigation. So also, verification of entire electronic gadgets and data therein, is necessary to be done. It can not be lost sight of that the applicant/accused is holding an important government service position as "Chairman of the M.S.S.D.S." and he is empowered to take decisions, which would impact the society at large.

19. There is no medical certificate produced at this juncture before me, which would show that the applicant/accused is unfit for any further custody. The submission of applicant/accused is that he is advised "home quarantine" and after the period of home quarantine, he can join the Investigating Agency for further investigation. Therefore on medical grounds, it can not be said that the applicant/accused needs to be released on bail for further medical treatment, etc. At the most considering the medical grounds raised by the applicant/accused, separate directions in this regard can be given to the Jail Authorities.

20. Thus, to sum-up the entire discussion, the nature and gravity of offence is serious. The investigation so also the interrogation with the applicant/accused, are not concluded. The magnitude of offence is very large. The release of applicant/accused on bail may hamper the investigation in progress. Considering his high-handed position with specific reference to the submission of prosecution that none of the witnesses from the office of applicant/accused have yet tendered any document, his release on bail may hamper the ongoing

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investigation. Therefore, considering the complicity of applicant/accused with this crime and as the investigation is in bud, at this stage, I am not inclined to accept the bail plea of the applicant/accused. Resultantly, I answer Point No. 1 in the negative and with regard to Point No. 2, I proceed to pass the following order :-

ORDER

1. Bail Application No. 20/2022 in ACB Remand Application No. 21/2022 (C.R. No. 1/2022) filed by the applicant/original accused Shri. Anil Madanji Jadhav is hereby rejected.

2. Issue letter to the Superintendent, Arthur Road Central Prison, Mumbai to provide adequate, sufficient and immediate medical help to the applicant/accused, if he complains of ill-health hereinafter and to follow the strict Covid-19 treatment protocol, as advised by the Medical Officer.

3. Bail Application No. 20/2022 in ACB Remand Application No. 21/2022 stands disposed of accordingly.

(Dictated and pronounced in open court)

Date:-12/01/2022

(S. P. NAIK-NIMBALKAR)
Special Judge under P.C. Act,
City Sessions Court for Greater Bombay
at Mumbai.

Dictated on : 12/01/2022
Transcribed on : 13/01/2022
Signed on : 13/01/2022
Sent to Dept. on :

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL
SIGNED JUDGMENT/ORDER

13/01/2022 at 4:07 p.m.
UPLOADED DATE AND TIME

Gitalaxmi R. Mohite
NAME OF STENOGRAPHER

Name of the Judge (With Court Room No.)	H.H.J. Shri. S. P Naik-Nimbalkar (Court Room No. 46)
Date of Pronouncement of Judgment/Order	12/01/2022
Judgment/Order signed by P.O. on	13/01/2022
Judgment/Order uploaded on	13/01/2022