

CNR No. MHCC02-000920-2022



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

ACB BAIL APPLICATION NO. 42 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. Niranjan 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  
S. P. NAIK-NIMBALKAR,  
(C.R. No. 46).**

**DATED: 1st February, 2022.**

**:ORAL ORDER:**

This is the second application filed by the applicant/original accused Shri. Anil Madanji Jadhav under Section 439 of the Code of

Criminal Procedure, 1973 ("the Cr.P.C." for short) for releasing him on bail. The applicant/accused 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.

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 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 from the applicant/accused. He was called to meet the

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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 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 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

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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. His first bail application bearing Bail Application No. 20/2022 came to be rejected vide order dated 12/01/2022.

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. The applicant/accused is 52 years old and was tested Covid positive during the Police Custody. He is suffering from cervical spondylosis and hyper-tension and is on medications. The applicant/accused needs proper medical treatment and hence, he be

released on bail.

d. The investigation is virtually over and the applicant/accused has co-operated the Investigating Agency during his P.C.R., therefore there is no further need of custodial interrogation. The data in hard-disks is already examined and office file of the said academy has been taken into custody. 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/ACB. 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 at Exh-2.

6. As per the **reply of prosecution**, it has 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. He may influence the informant and witnesses. 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 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. Niranjana Mundargi for the applicant/accused has submitted along with the line 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.

9. It is further submitted by Ld. Advocate Mr. Niranjana 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, if called for.

10. It is also submitted by Ld. Advocate Mr. Nirnajan 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.

11. It is further submitted by Ld. Advocate Mr. Nirnajan Mundargi for the applicant/accused that the Government Resolution dated 18/01/2022 has been issued. As per the references quoted in Government Resolution dated 18/01/2022, it can be seen at Serial No. 6 that the applicant/accused had submitted his letter dated 31/12/2021 for approval of Tailor made courses and accordingly final approval to the Certificate Courses of the informant's academy has been granted and such enclosures are annexed to the Government Resolution. He has further relied on the observations of the Hon'ble Bombay High Court in the case of **Khemlo Sakharam Sawant vs. State** reported in **(2001)2 BOMLR 875**. I will refer to this authority case-law at the relevant part of the order. On all these grounds, he has prayed to release the applicant/accused on bail.

12. *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

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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.

13. 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. Investigation Officer Smt. Supriya K. Nate has further submitted that the applicant/accused was tested Covid positive on 10/01/2022. He was tested Covid negative on 21/01/2022 and was further advised to remain under quarantine period. The documents from his office are collected. The statements of some witnesses are recorded and some of the witnesses are yet to be recorded. Investigation is in progress. The applicant/accused has not entirely co-operated with the investigation. The gist of submissions of prosecution is that the investigation is yet in progress and it may be hampered by release of applicant/accused on bail.

14. 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 :-

15. 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.

16. 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.

17. It is an admitted fact that the first bail application of applicant/accused bearing No. 20/2022 was rejected as per order dated 12/01/2022. Ld. Advocate Mr. Niranjan Mundargi has pointed out para 20 of the order to canvass the submission that the first bail application was rejected on the grounds that investigation was pending then. He further submits that as of now the investigation is completed.

18. While rejecting the first bail application, the *prima-facie* case against the applicant/accused, complicity of the accused in this

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offence, reasonable grounds to *prima-facie* believe that the accusation is well-founded and the pending investigation with the applicant/accused, were considered in detail. Hence, no purpose would be served in this application by reiterating and repeating the same. As of now, it is to be considered as to whether there is any facts change in situation and circumstances, which would lead to an inference of entitlement of bail.

19. As per the say of prosecution Exh-2, it is mentioned that the documents from the office of applicant/accused are collected. The statements of some of the witnesses are recorded. However, it is also mentioned in the say of prosecution that the process of recording of statements of witnesses, is not yet over. There is nothing in the say of Investigating Officer to infer that the investigation is entirely completed and the applicant/accused, if released on bail, would not influence the outcome of the investigation process. Therefore, considering the fact of ongoing investigation with regard to the specific reasons while rejecting the first bail application, it can not be held at this stage that the investigation is completed and there is facts change in situation or change in circumstances from the filing of first bail application till date.

20. On going through the Government Resolution dated 18/01/2022, it is seen that the applicant/accused has forwarded the proposal for sanction of certified courses to the academy of the first informant on 31/12/2021. However, it would be premature to decide the nexus between the Government Resolution dated 18/01/2022 and filing of F.I.R. dated 05/01/2022. It may be

conclusively determined in the light of further evidence, to be adduced, at the time of trial.

21. The observations in the case of **Khemlo Sakharam Sawant vs. State** (*cited supra*) are as under :-

*"10. In the present case, although the Investigating Agency has alleged that if the applicant is released on bail, he is likely to tamper with the evidence. This apprehension is totally misplaced, for the simple reason that having regard to the nature of the allegations in the complaint, the crucial evidence is that of the complainant himself. Therefore, in case the applicant, if released on bail, and attempts to bring any pressure on the complainant, that would be a good case for cancellation of bail, but it will result in miscarriage of justice to keep the applicant in custody on the basis of mere apprehension. It is not necessary for this Court to go into the correctness of the statements recorded by the Investigating Officer for the same will have to be done at the appropriate stage during the trial. For the time being, what is to be seen, is the nature of the offence; and the possibility of the applicant, if released on bail, making any attempt to tamper with the prosecution evidence or witnesses. As observed earlier, the complaint is simplicitor for an offence under Section 12 of the Prevention of Corruption Act, and in that connection, necessary evidence has already been recorded by the Investigating Agency. Merely because co-accused is absconding, is not a sufficient ground to refuse bail in such matters especially when the principal offender has not been booked and the applicant is merely charged of abetment. In the circumstances, I have no hesitation in observing that the Sessions Court was clearly in error in refusing bail mainly being influenced by considerations other than law."*

22. On going through the case-law, it is seen that the facts are entirely different. The stage of investigation is different. The offences applied and complicity, are different. Therefore, with great

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respect and regards, the ratio in **Khemlo Sakharam Sawant vs. State** (*cited supra*) is not applicable to the case in hand.

23. Thus to conclude, the investigation is yet incomplete. There is no facts change in situation or change in circumstances from the date of filing of first bail application till date. As strong possibility yet remains that the applicant/accused may influence the ongoing investigation process, no case for enlargement on bail is made out by him. 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. ACB Bail Application No. 42/2022 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. ACB Bail Application No. 42/2022 in ACB Remand Application No. 21/2022 stands disposed of accordingly.

(Dictated and pronounced in open court)



Date:-01/02/2022

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

Dictated on : 01/02/2022  
Transcribed on : 01/02/2022  
Signed on : 01/02/2022  
Sent to Dept. on :

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER	
01/02/2022 at 3:30 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	01/02/2022
Judgment/Order signed by P.O. on	01/02/2022
Judgment/Order uploaded on	01/02/2022