

**IN THE COURT OF SPECIAL JUDGE, C.B.I.
AT GREATER BOMBAY
ORDER BELOW BAIL APPLICATION NO.170 OF 2022
IN
REMAND APPLICATION C.B.I. NO.183 OF 2022
IN
R.C.NO.4/E/2017/CBI/EOB/Mumbai.
(CNR. NO. MHCC02-003117-2022)**

Kiran Anil Kokare @ Sona Kalia
Age-Adult, Occupation-Business,
Residing at Flower G.R.D. Hutchments,
Sant Tukadji Maharaj Road, near Arihant
Building, Karnak Bundar, Chinch Bunder,
Mumbai-400 009.

.. Applicant/
Accused No.3

V E R S U S

C.B.I. E.O.B., Mumbai.

.. Respondent/Complainant.

Ld. Advocate Mr. R. B. Mokashi for Applicant/Accused No.3.
Ld. P.P. Mr. J.K. Sharma for C.B.I.-E.O.B./Complainant.

**CORAM: HIS HONOUR SPECIAL JUDGE
SHRI. V.C. BARDE
C.B.I. SPECIAL COURT
(Court Room No. 50)**

DATE : 27th April, 2022.

ORDER

Applicant/Accused No.3-Kiran Anil Kokare in the above crime under Sections 420, 467, 468, 471 read with Section 120-B of the Indian Penal Code (for short, 'I.P.C.') and under Sections 13(2) and 13(1)(d) of the Prevention of Corruption Act, (for short, 'P.C. Act') has moved this application under Section 439 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') for grant of bail.

2. The applicant/accused contended that he was arrested on 22.02.2022 and was produced before the Court on 23.02.2022, from

when he was in police custody till 08.03.2022, and thereafter, he is in judicial custody. It is contended by accused that the prosecution has made allegations that between 2014-2016, 13 entities floated IECs and other registrations were obtained and current accounts were opened for the said entities in 6 different Banks. These entities submitted forged import documents such as Bills of Entries, Invoices, Bills of Lading, etc. purportedly issued by Jawaharlal Nehru Custom House (JNCH), Nhava Sheva, Mumbai, and New Custom House (NCH), Mumbai, to these 6 Banks and sent forex remittance in USD equivalent to Hong Kong. The values of the imports in the Bills of Entry submitted to banks were higher than the value declared in the Bills of Entry filed with the Customs. Further, it is alleged that the Bills of Entry were submitted to different Banks and payment were made multiple times to the entities in Hong Kong, and the accused entities, in conspiracy with the unknown bank officers, had illegally transferred funds out of India as import payments through forged Bills of Entries, Invoices, etc., and caused huge loss of foreign exchange reserve of the country to the tune of Rs.2252 Crores. In the grounds claiming bail the accused stated that he has been falsely implicated in the case. All the alleged fraudulent transactions and accounts entries mentioned by the respondent in the said case are between the period 2014-2016, however, the present accused came to be employed by Mohammed Farooque Mohammed Hanif Shaikh @ Farroq Shaik in the year 2017 and continued to be in the employment till August-2021. During said period, no alleged fraudulent transactions or account entries were made. It is contended that the incorporation of the said M/s. Voilet Trading Pvt. Ltd. is not made during the period 2014-2016, when the alleged amounts were transferred from multiple accounts entries. Since he was employed by the said accused person only in the year 2017, there cannot be a

presumption of the present accused being actively involved in collecting cash from various parties, who wanted to send money to Hong Kong and layering of the huge amount of cash through cheques discount broker etc. The accused contended that he had no role to play in the cash obtained as RTGS credits into the account of the accused entities. The accused had not been working with any of the accused entities or Mohammed Farooque Mohammed Hanif Shaikh, during the relevant period of 2014-2016, and therefore, the accused had no role to play in assisting the said accused and Mohd. Gaus in obtaining the stationery for printing forged bills of entry, bills of lading and rubber stamps and seals of the Custom officers and others for using in the forged bills of entry. It is contended that there is nothing to show that the accused assisted Mohammed Farooque by taking photographs of containers with their Serial numbers in the yard of JNCH, Nhava Sheva for preparing the forged bills of lading. The accused contended that all material alleged to have been assisted by the accused i.e. stationery, rubber stamps and photographs, are available to any person who is in search for the same and does not require any specific assistance as alleged. It is contended that in P.M.L.A. Case No.6 of 2018, filed by Directorate of Enforcement, Mumbai, Zonal Office-I, it is alleged that the said forged import documents submitted to the banks for sending huge amounts of forex to Hong Kong against the forged bills of entry etc. were made by other accused i.e. Mohammed Farooque Mohammed Hanif Shaikh, Mohammed Gaus Mohammed Hanif Shaikh, Murarilal Jhunjhunwala and Anup Jhunjhunwala in the said case. The present accused is not arrayed as accused in the said case. All the accused persons who are arrayed in P.M.L.A. Case No.6 of 2018, are enlarged on bail, including main accused Mohammed Farooque, who was granted interim bail by Hon'ble Bombay High Court. It is further

contended that after the alleged recovery, the case of C.B.I. is based on documents, which are already seized by them in course of investigation. It is contended that the Directorate of Enforcement, (for short, 'E.D.') have already concluded their investigation in the said case, and have filed charge-sheet in the said matter. Most of the relevant documentary evidence and other relevant material is already seized by Directorate of Enforcement, and is forming a part of the charge-sheet filed by them. The applicant contended that in view of the law relating to bail, he is entitled to be released on bail. Bail is a rule and jail is an exception. The accused has no criminal antecedents. He is residing with his family within jurisdiction of the court, and there is no likelihood of his absconding in this case. He is law abiding person. There is nothing to be investigated from him, and therefore, no purpose will be served in detaining him in custody. This is his first bail application. The accused submitted to release him on bail subject to conditions.

3. In the reply (Exhibit-2) filed by C.B.I. to the bail application, it is contended that on the basis of complaint dated 13.05.2017, against the Directors/Proprietors of M/s. Stelkon Infratel Pvt. Ltd. and others, F.I.R was registered for the offences punishable under Section 120-B read with Section 420 of I.P.C. and under Section 13(2) read with 13(1)(d) of P.C. Act. During investigation, Sections 467, 468 and 471 of I.P.C. were invoked. It is alleged that the fraud in the case is in respect of amount of Rs.2252.82 Crores. It is contended that in pursuance of the conspiracy, at Mumbai, and other places, during 2014-2016, the accused persons Mohd. Farooq, Mohd. Gous, Mohd. Hussain @ Raja, Brijesh Lohia, Kiran Kokare @ Sonu Kalia and other accomplices, induced poor and illiterate persons to share their KYCs, by giving petty

amounts and using the same KYC documents, firms and companies were floated in their names by making them Directors and Proprietors of the said entities. The said accused persons obtained IEC, VAT and other registrations for the 13 entities and opened current accounts in the branches of Punjab National Bank, Canara Bank, Corporation Bank, e-State Bank of Hyderabad, Central Bank of India and Axis Bank at Mumbai. It is further contended that accused Mohd. Farooque with the aid and assistance of above accused persons collected huge unaccounted amount of cash running into crores of rupees from various entities, who wanted to fraudulently forex remittance at abroad. Subsequently, the unaccounted cash was layered through various Angadias, Cheque discount brokers and the accounts of the members of Multistate Co-operative Societies viz.,-Renukamata, Vishwakalyan, Mangaldeep, Venkatesh, Dyaneshwari and others. Further, the said unaccounted cash was credited through RTGS into the account of the said 13 entities in the banks. The low value Chinese goods were imported from Hong Kong through these name-sake accused entities, and consignments were cleared by filing Bills of Entry for low values, online in the EDI system of Jawaharlal National Customs House (JNCH), Nhava Sheva and New Customs House (NCH), BPT, Mumbai. The value of the imported consignments in USD, declared in Bill of Entry filed for these entities is very less. The EDI system of customs allots a unique automated serial number for each Bill of Entry of an entity. The Bill of Entry is a vital document, to be submitted to bank for sending payment to the supplier of the imported goods. In respect of role of the present accused, it is contended that the accused assisted Mohd. Farooque Shaikh and Mohd. Gaus in collecting cash from various parties who wanted to send money to Hong Kong and layering of the huge amounts of cash through cheque discount brokers, etc. and

to obtain the cash as RTGS credits into the account of the accused entities. He assisted Mohd. Farooque Shaikh and Mohd. Gaus in obtaining stationery for printing forged Bills of Entry, Bills of Lading and rubber stamps, seals of Customs Officers and others for using in the forged Bills of Entry. He assisted Mohd. Farooque Shaikh by taking photographs of containers with serial numbers in the yard at JNCH, Nhava Sheva for preparing the forged Bills of Lading. The forged import documents were submitted to banks for sending huge amounts of forex to Hong Kong against the forged Bills of Entries etc. He assisted Mohd. Farooque Shaikh and Mohd. Gaus in all ways and means in illegally sending USD equivalent to Rs.1463.35 Crores through the 8 entities to Hong Kong in 786 individual instances. Further, he had enjoyed share out of the wrongful gain made by Mohd. Farooque Shaikh, by collecting huge commission per USD, from the fund providers in Mumbai and other places. During his police custody, one of the Directors of M/s. Violet Trading Private Limited, Mumbai, Govind Vaijinath Kadam who is one of the Director of the Company along with accused stated that Mohd. Firoz Shaikh and the present accused have induced him to give Mathadi identity card. He has shared his KYC documents with the accused and at the end, present accused fraudulently misused the documents for opening the bank account in Bank of India, Mandvi Branch, Mumbai. He was one of the Directors of M/s. Violet Trading Private Limited. The bank account of this company is maintained in Bank of India, Mandvi/Bhat Bazar Branch, Mumbai. As directed by Mohd. Farooque Shaikh, the accused received funds from fictitious company Flora International, floated by Mohd. Farooque, to the tune of Rs.25 Lakhs in the account of M/s. Violet Trading Private Limited, and had transferred the funds to the account of Kishor Bhojraj Gaba on 22.06.2017, and had purchased a

hotel-Shri Nanumal Bhojraj in his name on behalf of Mohd. Farooque Shaikh. This shows his proximity to Mohd. Farooque Shaikh in his fraudulent activities. The accused had assisted the prime accused Mohd. Farooque Shaikh by submitting RTGS applications for transfer of funds from one account to another in various banks and for making forex transactions, and thus, assisted in layering of the funds for making forex transactions, and thereby, facilitated the fraud. In order to make fraudulent forex remittance by way of adopting the *modus operandi* as narrated above, the accused had assisted the main accused. The accused had assisted the prime accused Mohd. Farooque Shaikh by submitting the forged import documents i.e. Bill of Entries, invoices in the name of these namesake entities with exorbitant value of amount at twenty-thirty times with the actual value of goods, with forged signatures and seals/stamps of the Custom Officials to various banks for sending forex remittance and thus facilitated the fraud. The accused had assisted the main accused Mohd. Farooque Shaikh in all ways and means. After arrest of Mohd. Farooque Shaikh by Enforcement Directorate in April, 2018, the present accused and others played a major role in destroying and removing the material objects such as forged rubber stamps of name-sake entities floated by them, customs officers, shipping liners, computer, hard-disk, used for preparation of forged Bill of Entries, invoices, etc. and destroyed the evidence. The accused assisted the main accused in illegal forex remittances and it was diverted by way of distributing the funds to various parties and the accused facilitated commission of wrongful loss in the form of remittance of foreign currency on the basis of false and fabricated documents and corresponding wrongful gain to himself and others by receiving huge amount in cash as the commission towards per USD sent at abroad. It is contended that during the course of PCR, the

witnesses identified the present accused. The present accused actively rendered his active participation in the nefarious deal, right from collection/layering of cash, obtaining material objects for forgery, and submitting forged documents to various banks for sending forex remittances. C.B.I. has denied the allegations made in the application and the grounds raised by the accused claiming his release on bail subject to conditions. Accused is alleged to have willfully assisted the main accused as stated above and facilitated the commission of offences that resulted in the illegal forex remittance of the huge amount. The settled legal principles enunciated by the Hon'ble Supreme Court in respect of consideration of the bail application are relied by C.B.I. wherein Hon'ble Supreme Court held that the contention of the accused who is an accused of such kind of white collar offences, should be viewed seriously by the court. The economic offence are a class apart and cannot be treated at par with conventional offences, as the economic offences have far reaching impact on the fiscal health of a nation. Therefore, C.B.I. submitted to reject the bail application.

4. Heard learned Advocate for the accused and learned P.P. for C.B.I., E.O.B., Mumbai. Perused the record of the case.

5. In the submissions of learned Advocate for accused, the accused was arrested on 22.02.2022 itself, and search of his premises was taken by C.B.I. He submitted that the accused was only an employee of accused Mohd. Farooque, whereby he only followed the directions of his employer, without any intention of commission of offence, and the cash was delivered by him as per directions of employer in the usual course of business. The prime accused Mohd. Farooque is not arrested in this case. The assistance as alleged by C.B.I. in the remand papers

does not fall under the provisions of Section 120-B of I.P.C. In order to attract the ingredients of Section 120-B of I.P.C., a direct involvement in conspiracy is required to constitute the offence. The role of the accused appearing from police papers is that of an employee only. As the investigation against the accused is complete and his police custody is over, there is no requirement to keep him in jail, and therefore, he shall be bailed out. He submitted that there is no possibility of tampering evidence or influencing any witness by accused who only acted as a servant. Prosecution never alleged tampering any evidence by accused earlier to his arrest. The incident in question is alleged to have occurred in the year 2014, upon which F.I.R. has been lodged in the year-2017, and accused is arrested on 22.02.2022. This longevity and delay on the part of prosecution itself shows that further custody of accused is not required, and they have investigated the matter so far related to accused. Accused is permanent resident of Mumbai, and therefore, he will not flee away from justice. Accused has not been named in F.I.R. So also, in the prosecution lodged by E.D. in the crime of money laundering as a predicate offence, the present accused has not been arrayed as such an accused. Prosecution failed to recover anything as a share of wrongful gain from accused. As the prosecution by E.D. is going on, there is no question of further investigation by C.B.I. To be a Director of a Company is not an offence. The allegations of opening account of another person would show that such person himself has consented to be a Director. C.B.I. made arrest after 5 years, and therefore, they cannot now say that a further detention of accused is necessary. Reply filed by C.B.I. shows that same allegations which were made during remand, are repeated with no further substance brought against the accused. The role alleged by C.B.I. against the accused is that of assistance to main accused and not of conspiracy, as

the accused was merely an employee. No evidence is brought by C.B.I. to show collection of any amount by accused as proceeds of crime, and no recovery is made from him. The beneficiary of the alleged offence is Mohd. Farooq and not the present accused. The prosecution shall not persecute. No possibility of absconding of accused is brought by prosecution. Accused is not a habitual offender, and no criminal antecedents against him are brought on record. He can remain present before Investigating Officer as and when called. He submitted that only on the basis of allegations, the role cannot be presumed in the offence. He submitted that the accused may be released on bail subject to conditions. Learned Advocate for the accused relied on following citations:

i. In **State of Kerela V/s. Mahesh, [2021 SCC Online SC 308]**, it is held by **Hon'ble Supreme Court** that:

“It is well settled that though the power to grant bail under Section 439 of the Cr.P.C. is discretionary, such discretion has to be exercised judiciously, as held by this Court in Ram Govind Upadhyay v. Sudarshan Singh reported in (2002) 3 SCC 598.”

“The nature of the offence is one of the basic considerations for the grant of bail. More heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter. Apart from the above, certain others which may be attributed to be relevant considerations may also be noticed at this juncture, though however, the same are only illustrative and not exhaustive, neither there can be any. The considerations being: (a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations. (b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail. (c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but

there ought always to be a prima facie satisfaction of the court in support of the charge. (d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail. ”

ii. In **Prasanta Kumar Sarkar V. Ashis Chatterjee [(2010) 14 SCC 496]**, it is observed by **Hon'ble Supreme Court** that:

“It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are: (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the accusation; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character behaviour means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being influenced; and (viii) danger, of course, of justice being thwarted by grant of bail.”

iii. In **Chandraswami and another Vs. C.B.I., [1997 AIR (SC) 2575]**, it is held by **Hon'ble Supreme Court** that:

“Section 437(1) provides that when any person accused of, or suspected of, the commission of any non-bailable offence is brought before a court, he may be released on bail unless his case falls in clause (i) or (ii) thereof. The present case is not covered by the said two clause. Therefore ordinarily a person who is suspected of having committed an offence under the section 120-B read with 420 of I.P.C. would be entitled to bail; of course the paramount consideration would always be to ensure that the enlarge of such persons on bail will not jeopardize the prosecution case.”

iv. In **P. Chidambaram Vs. CBI [Cri Appeal No.1603/2019]**, it is observed by **Hon'ble Supreme Court** that:

“At the stage of granting bail, an elaborate examination of evidence and detailed reasons touching upon the merit of the

case, which may prejudice the accused should be avoided.”

v. In **Moti Ram Vs State of M.P. [1978 DGLS Soft 207]**, it is held by **Hon'ble Apex Court** that:

“The consequences of pre-trial detention are grave and the burden of his detention frequently falls heavily on the innocent members of the family.”

vi. In **State of Rajasthan Vs. Balchand, [AIR 1977 SC 2447]**, it is observed by **Hon'ble Apex Court** that:

“The basic rule may perhaps be tersely put as bail, not jail except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences, or intimidating witnesses and the like, by the petitioner who seeks enlargement on bail from the court.”

vii. In **Sanjay Chandra Vs. CBI, [AIR 2012 SC 830]**, it is held by **Hon'ble Apex Court** that:

“The object of bail is neither punitive nor preventive and generally it is laid down from earliest times that the object of bail is to secure the presence of the accused person at the time of trial.”

6. Learned P.P. for C.B.I. submitted that offence under P.M.L.A. and as brought under I.P.C. and P.C. Act by C.B.I. is different, and C.B.I. has to proceed further as per law after F.I.R. in this case came to be lodged. He submitted that there is direct evidence of conspiracy in this case against accused. The accused assisted Mohd. Farooq in offensive act, and not a lawful act. Accused actively participated in the crime. He submitted that initially, offence came to be registered against 13 Directors and Proprietors of Companies/Firms. There are allegations of collecting cash by present accused by assisting Mohd. Farooq, who both were to send money to Hong Kong. The accused arranged for stationery for forged bills of entry. He assisted in obtaining

photographs at JNCH, Nhava Sheva and NCH, Ballard Pier. Forged import documents were submitted by accused to the bank. The accused has enjoyed the share of wrongful gain. The accused played active role in commission of offence. He submitted that looking to the nature of fraud involved and the investigation still going on in the matter, the accused may not be released on bail. He submitted that the investigation is at a crucial stage, which will be hampered, if accused is released on bail.

7. In this case, F.I.R. is registered by C.B.I. vide RC.No.4/E/2017 under Sections 420, 467, 468 and 471 of I.P.C. and under Section 13(2) read with Section 13(1)(d) of P.C. Act against 13 accused firms run by Proprietors/Directors. The above Sections 467, 468 and 471 of I.P.C. are later on added by C.B.I. before arresting the present accused and three others. The contention of C.B.I. is that the case has been registered against the Directors and Proprietors of accused nos.1 to 13 that between 2014-2016, 13 accused entities floated IECs and obtained other registrations, and current accounts were opened for the said entities in 6 banks viz.-Punjab National Bank, Central Bank of India, Corporation Bank, Canara Bank, Axis Bank and e-State Bank of Hyderabad-now State Bank of India, Mumbai. The said entities submitted forged import documents, such as Bills of Entries, Invoices, Bill of Lading, etc. purportedly issued by Jawaharlal Nehru Custom House (JNCH), Nhava Sheva, Mumbai and New Custom House (NCH), Mumbai, to the said 6 banks and had sent Forex remittance in USD equivalent to Rs.2252.82 Crores, between 2014-2016, to various entities in Hong Kong. The value of the imports in the Bills of Entry submitted to bank is very high than the value declared in the Bills of Entry filed with customs. It is further contended by C.B.I. that the Bills

of Entry were submitted to different banks and payments were made multiple times to the entities in Hong Kong. The accused entities, in conspiracy with the unknown bank officers, had illegally transferred funds out of India as import payments through forged Bills of Entries, Invoices etc., and caused huge loss of foreign exchange reserve of the country to the tune of Rs.2252 Crores. It is further contended that in pursuance of the conspiracy at Mumbai and other places during 2014-2016, the accused persons Mohd. Farooq, Mohd. Gaus, Mohd. Hussain @ Raja and other accomplice induced poor persons, to share their KYCs, by giving petty amounts and floated firms and companies in their names making them Directors and Proprietors. The said accused persons obtained IEC, VAT and other registrations for 13 entities and opened current accounts in 6 Banks. Further, it is the contention of C.B.I. that during 2014-2016, the above said accused with assistance of present accused, collected amounts to the tune of Rs. 2252 Crores from various entities, who wanted to send money to Hong Kong illegally. The amounts so collected were layered through Angadias, Cheque Discount Brokers and through the accounts of the members of Multistate Co-operative Societies viz.-Renukamata, Vishwakalyan, Mangaldeep, Venkatesh, Dyaneshwari & others and brought as RTGS credits into the account of the said 13 entities in the said banks. It is further contended by C.B.I. that said accused persons, along with assistance of other accused prepared forged Bills of Entry for the name-sake firms in the same serial number, with inflated high USD value of the consignment and other details, and affixed forged seals and signatures of the Customs Officers of JNCH, Nhava Sheva and NCH, Mumbai. Further, the accused persons are alleged to have prepared forged invoices of Chinese suppliers for high value and forged Bills of Lading and other documents, and submitted to the said 6 banks

between the years 2014-2016. The required funds were already layered into the accounts of the said accused entities. It is contended by C.B.I. that the banks converted the INR into USD as per the exchange rate and sent forex remittance on the USD value found in the forged Bills of Entry, and Invoices to various entities in Hong Kong.

8. The learned Advocate for the accused submitted that the accused was an employee of prime accused-Mohd. Farooq, on whose instructions the accused acted, and therefore, no motive to commit offence and wrongful gain can be attributed to accused. In this regard, from the role played by the accused in the offence alleged by CBI, it can be seen that there are allegations against the present accused that he assisted accused Mohd. Farooq and Mohd. Gaus in collecting cash from parties desiring to send money to Hong Kong. He assisted in obtaining stationery for forged bills, rubber stamps and seal of customs. Forged import documents are alleged to have been submitted to bank. The assistance was made by present accused for sending Rs.1,463.35 Crores through 8 entities to Hong Kong. There are allegations of enjoying share in wrongful gain by the accused. During investigation, one Govind Kadam stated that the accused induced him to give Mathadi identity card which was fraudulently misused. The accused is alleged to have received funds from fictitious Company-Flora International, formed by Mohd. Farooq, which funds were to the extent of Rs.25 Lakhs. The accused is alleged to have used funds for purchasing hotel Nanumal Bhojraj, by transferring the funds to Kishor Bhojraj Gaba. The accused is alleged to have assisted Mohd. Farooq by submitting RTGS applications for transferring funds. Thus, from the evidence collected as yet during investigation, it cannot be said that the accused acted merely as an employee of Mohd. Farooq, but he himself assisted Mohd.

Farooq in various activities of criminal nature, in respect of which the investigation is still going on. After careful perusal of the case-diary and the role alleged against the accused, at this stage of the matter, a sufficient *prima facie* evidence is appearing in order to show that the accused has actively participated in crime with Mohd. Farooq, and the activities so carried out were of criminal nature entailing consequences, whereby a fraud to a huge extent has been committed. The offence alleged against the accused is economic offence. The statements of witnesses and material shows such involvement of the accused in the crime. Therefore, the arguments made for accused of no role played by him in the offence cannot be accepted, and the accused cannot be released on bail in view of the ongoing investigation in such a huge scam. The learned Advocate for the accused relied on the cases of **State of Kerela V/s. Mahesh, Prasanta Kumar Sarkar, and Chandraswami** (*supra*) regarding the principles for grant of bail in non-bailable offences. Having taken into consideration the observations therein, the nature of accusations show that there is *prima facie* material against the accused in a case where there are allegations that the accused acted in conspiracy with accused Mohd. Farooq and Mohd. Gous for fraud to the extent of an amount of Rs.1463.35 Crores.

9. It is further contended for accused that the investigation is complete against the accused, and that his custody is not further required. It is pertinent to note here that the investigation is still going on as it is appearing from the case diary, wherein the amount which is subject matter runs into thousands of crores of rupees. Though the F.I.R. is lodged in the year-2017, the offence under Section 467, 468 and 471 of I.P.C. have been added in February-2022 and the accused is apprehended on 22.02.2022 in this case. The prosecution under P.M.L.

Act and the one investigated by C.B.I. are under different statues.

10. The learned Advocate for accused further relied on cases of **P. Chidambaram, Moti Ram, State of Rajasthan Vs. Balchand and Sanjay Chandra** (*supra*) dealing with exercise of discretion in favour of accused. Considering the nature of accusation against the accused relating to the offence and the role played by him of participating in criminal activities alongwith accused Mohd. Farooq and Mohd. Gous, at this stage of the matter, no case is made out to grant bail to the accused, as the prosecution is collecting the evidence and there is every likelihood of tampering evidence or threatening witness as is expressed by prosecution. The total amount alleged to have remitted as foreign exchange is Rs.2252.82 Crores to various entities in Hong Kong. The offence under Section 120-B read with Sections 420, 467, 468 and 471 of I.P.C. is being investigated by C.B.I. Out of the accused persons, the present accused came to be arrested on 22.02.2022. Therefore, release of the accused at this stage on bail may hamper the progress of investigation of the present case of complex nature. Therefore, no case is made out to grant bail to the accused. Hence, I proceed to pass the following order.

Order

Bail Application No.170 of 2022 filed by applicant-accused No.3- Kiran Anil Kokare @ Sona Kalia is hereby rejected.



Date : 27.04.2022

(V. C. BARDE)
C.B.I. Special Judge,
City Civil & Sessions Court,
Gr. Bombay.

Dictated on : 27.04.2022
Typed on : 27.04.2022
Signed by HHJ. : 27.04.2022

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

**28.04.2022/ 1.18 p.m.
UPLOAD DATE AND TIME**

**Mrs. Pradnya S. Naik
NAME OF STENOGRAPHER**

Name of the Judge (with Court Room No.)	Shri. V.C. BARDE (CR.No.50)
Date of Pronouncement of JUDGEMENT/ORDER	27.04.2022
JUDGEMENT/ORDER signed by P.O. on	27.04.2022
JUDGEMENT/ORDER uploaded on	28.04.2022