

# **Smt. Anjani Mishra vs The State Of Madhya Pradesh on 30 July, 2021**

**Author: Rajeev Kumar Dubey**

**Bench: Rajeev Kumar Dubey**

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The High Court Of Madhya Pradesh  
MCRC-29766-2021

(SMT. ANJANI MISHRA Vs THE STATE OF MADHYA PRADESH)

Jabalpur, Dated : 30-07-2021

Heard through Video Conferencing.

Shri Anil Khare, learned senior counsel with Shri  
Pandey, learned counsel for the applicant.

Shri Sunil Gupta, learned P.L. for the respondent.

Shri Ajay Pratap Singh, learned counsel for the objector.

Case dairy perused.

This is the fifth application under Section 439 of Cr.P.C. for grant of bail. Applicant Smt. Anjani Mishra was arrested on 30/10/2015 in connection with Crime No.12/2015 registered at Police Station Dabhaura, District Rewa for the offences punishable under Sections 409, 420, 467, 468, 471, 120-B of the IPC.

First & second bail applications filed by the applicant were dismissed on merit by the coordinate Bench of this Court vide orders dated 05/01/2016 & 02/05/2016 passed in M.Cr.C.Nos.21996/2015 and M.Cr.C.No.6087/2016 respectively, third bail application was dismissed as not pressed vide order dated 18/04/2017 passed in M.Cr.C.No.18340/2016 and fourth application was dismissed on merit by this Court vide order dated 25/03/2019 passed in M.Cr.C.No.26072/2017.

As per prosecution case the Joint Registrar, Cooperative Societies through a newspaper got the knowledge about a fraud amounting to Rs.11 Crores in District Cooperative Central Bank Rewa, Branch Dabhaura, wherein huge amount of money was transferred to the accounts of various account holders from the Sundry account of the Bank. On that, an enquiry was conducted by the bank officials. In the enquiry, it was found that total fraud which had taken place was to the tune of the Rs.16,13,89,500/- and it was also found that Ramkrishna Mishra and Arun Pratap Singh Branch Manager of District Cooperative Central Bank, Branch Dabhaura in connivance with 2 MCRC-29766-2021 other Bank officials and applicant and other co-accused persons transferred the amount from the Sundry account of bank to the account of applicant and other co-accused persons and thus embezzled the said amount. The specific allegation against the present applicant is that an

amount of Rs.26,09,000/- on 28/12/2013, Rs.42,21,506/- on 03/01/2014, Rs.30,00,000/- on 20/10/2014 and Rs.32,00,000/- on 14/01/2015 were transferred to the account No.684217016303 of applicant located at District Cooperative Central Bank, Branch Dabhaura from the Sundry account of the bank, which was withdrawn and used by the applicant.

Learned counsel for the applicant submits that the applicant is innocent and has falsely been implicated in the offence. The applicant was not aware about the fact that the alleged amount had been deposited in the account No.684217016303 located at District Cooperative Central Bank, Branch Dabhaura. It is further submitted that the alleged amount was withdrawn by the co-accused Ramkrishan Mishra, the then Branch Manager of the said Bank. The alleged amount was transferred into the account of co-accused Pranesh Chandra Mishra, who is husband of the applicant and Police has already recovered that amount. Although earlier bail applications filed by the applicant were dismissed on merit, there is no report of a handwriting expert to show that the applicant prepared any forged documents, so offence under Section 467, 468 of the IPC is not made out against the applicant. Only offence under Section 420 of the IPC is made out against the applicant and maximum sentence prescribed under Section 420 of the IPC is of seven years. The applicant has been in custody since 30/10/2015 and trial is still pending, hence it is prayed that the applicant be released on bail. In support of his contention learned counsel placed reliance upon the judgments passed by Hon'ble Apex Court in the cases of Mohammed Ibrahim and Others vs. State of Bihar and Another, AIR (2009) 8 SCC 751 & Sheila Sebastian vs. R. Jawaharaj & another, (2018) 7 SCC 581.

Learned counsel for the State as well as learned counsel for the 3 MCRC-29766-2021 objector opposed the prayer and submitted that the earlier bail applications filed by the applicant were dismissed on merit and since then there is no change in circumstance, so looking to the enormity of fraud and involvement of applicant in the crime, she should not be enlarged on bail.

First & second bail applications filed by the applicant were dismissed on merit by the coordinate Bench of this Court vide orders dated 05/01/2016 & 02/05/2016 passed in M.Cr.C.Nos.21996/2015 and M.Cr.C.No.6087/2016 respectively, third bail application was dismissed as not pressed vide order dated 18/04/2017 passed in M.Cr.C.No.18340/2016 and fourth application was dismissed on merit by this Court vide order dated 25/03/2019 passed in M.Cr.C.No.26072/2017 and since then there is no change in circumstance, except the custody period. Hon'ble Apex Court in the case of Rajesh Ranjan Yadav alias Pappu Yadav v. CBI Through its Director, (2007) 1 SCC 70 held that bail can not be granted solely on the ground of long incarceration in jail and inability of accused to conduct the defence. Hon'ble Apex Court in the case of State of M.P. v. Kajad, (2001) 7 SCC 673 observed that it is true that successive bail applications are permissible under the changed circumstances. But without the change in the circumstances the second application would be deemed to be seeking review of the earlier judgment which is not permissible under criminal law as has been held by this Court in Hari Singh Mann v. Harbhajan Singh Bajwa [(2001) 1 SCC 169 : 2001 SCC (Cri) 113] and various other judgments.

It is alleged that Ramkrishna Mishra and Arun Pratap Singh Branch Manager of District Cooperative Central Bank, Branch Dabhaura in connivance with the applicant and other co-accused

persons transferred the amount from the Sundry account of the bank to the account of the applicant and other co-accused persons and thus embezzled the said amount. This shows that co-accused Ramkrishna Mishra and Arun Pratap Singh the then Branch Managers of District Cooperative Central Bank, Branch Dabhaura with the help of the applicant embezzled the amount. The prosecution has 4 MCRC-29766-2021 also filed the charge-sheet against the applicant under section 409 read with 120-B of IPC. Under Section 409 of IPC the sentence is prescribed up to life imprisonment. So, the judgments upon which reliance is placed by the learned counsel for the applicant i.e. Mohammed Ibrahim (supra) & Sheila Sebastian (supra) do not help applicant because that judgments only relates to Section 467, 468 of the IPC.

The specific allegation against the present applicant is that an amount of Rs.26,09,000/- on 28/12/2013, Rs.42,21,506/- on 03/01/2014, Rs.30,00,000/- on 20/10/2014, and Rs.32,00,000/- on 14/01/2015 were transferred to account No.684217016303 of the applicant located at District Cooperative Central Bank, Branch Dabhaura from the Sundry account of the bank, which was withdrawn and used by the applicant. It is alleged that co-accused Ramkrishna Mishra, Arun Pratap Singh Branch Manager of District Cooperative Central Bank, Branch Dabhaura with the help of the applicant and other co-accused persons embezzled a sum of Rs.16,13,89,500/-. So, looking to the facts and circumstances of the case, the enormity of fraud, and the involvement of the applicant in the crime, this Court is not inclined to grant bail to the applicant.

Hence, the application is rejected.

However, it appears from the record that the applicant has been in custody since 03/12/2015, while the trial Court has not framed charges as yet, which shows the reluctance of the trial judge towards performing its duties. In a case where an accused is in judicial custody, it is the duty of the trial Court to dispose of the case as expeditiously as possible, whereas in this case, a woman has been in jail for over 5 years, but the trial Court has not framed charges as yet, which shows that the trial court is not serious about the performance of its duties. So, the trial Court is directed to dispose of the case as early as possible preferably within a period of six months from the date of receipt of the copy of this order.

Office is directed to send a copy of this order to the learned trial Court 5 MCRC-29766-2021 for necessary compliance. Learned trial Court is also directed to send progress report of the trial every month to the Principal Registrar (Vigilance) through District Judge, Rewa.

(RAJEEV KUMAR DUBEY) JUDGE as