

# Sangeeta Sharma vs Union Of India on 7 April, 2022

**Author: Rajeev Kumar Dubey**

**Bench: Rajeev Kumar Dubey**

1  
IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR  
BEFORE  
HON'BLE SHRI JUSTICE RAJEEV KUMAR DU  
ON THE 7th OF APRIL, 2022

MISC. CRIMINAL CASE No. 10022 of 202

Between: -

SANGEETA SHARMA W/O SHRI RAVINDRA  
KUAMR SHARMA, AGED ABOUT 45 YEARS,  
OCCUPATION: NIL R/O JUNIOR H.I.G. 407 NEW  
HOUSING BOARD COLONY MORENA DISTRICT  
MORENA (MADHYA PRADESH)

(BY SHRI ANIL KHARE, LEARNED SENIOR COUNSEL WI  
BHASKAR PANDEY, ADVOCATE)

AND

UNION OF INDIA THROUGH CENTRAL BUREAU OF  
INVESTIGATION, P.S. CBI ACB BHOPAL (MADHYA  
PRADESH)

(BY SHRI J.K. JAIN, ASSISTANT SOLICITOR GENERA

This M.Cr.C. coming on for admission this day, t  
following:

ORDER

Case diary perused.

This is the first application under Section 438 of Cr.P.C. for the grant of anticipatory bail. Applicant Sangeeta Sharma apprehends her arrest in connection with Crime No.RCoo82020Aoo3 registered at CBI, ACB, Bhopal for the offences punishable under Sections 120-B read with Sections 407, 420, 201, 467, 468, 471 of the IPC and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act.

As per the prosecution case, M/s Maa Bijasen Agro Infrastructure, Morena, District Morena is a partnership firm and applicant Sangeeta Sharma and her husband co-accused Ravindra Sharma are

the partners of that firm. A Bank fraud was committed at UCO Bank, Branch Morena, District Morena between 31/12/2016 to 19/02/2018 in sanctioning 22 loans of Rs.10.70 crores in the name of different borrowers including the applicant. It is alleged that the said loans were obtained on the basis of forged warehouse receipts (WHRs) issued by the applicant and co-accused Ravindra Sharma (owners of M/s Maa Bijasen Agro Infrastructure, Morena, District Morena firm). It is further alleged that the applicant and co-accused Ravindra Sharma (owners of M/s Maa Bijasen Agro Infrastructure, Morena, District Morena firm) obtained said loans from the bank in their names and in the names of 10 other borrowers. Applicant and co-accused Ravindra Kumar Sharma by deceiving the other borrowers obtained their signatures on the relevant loan documents on one pretext or the other by keeping them in the dark and thereafter they obtained loans in their names as well in the names of 10 other borrowers. It is further alleged that the said borrowers neither applied for WHR loan from UCO Bank nor did they keep any commodity at M/s Maa Bijasen Agro Infrastructure, Morena, District Morena. It is further alleged that the warehouse receipts (WHRs) in 22 loan cases were issued by applicant Sangeeta Sharma and co-accused Ravindra Sharma without any stock knowing fully well that no commodity was kept in the warehouse. The said loan amounts were transferred in the current account of M/s Maa Bijasen Agro Infrastructure, Morena, District Morena and also a sum of Rs.3.76 crores was transferred in three accounts i.e. two saving accounts belonging to co-accused Ravindra Kumar Sharma and applicant Smt. Sangeeta Sharma and third account i.e. current account in the name of M/s Maa Bijasen Agro Infrastructure, Morena, District Morena. Thus, the applicant and co-accused committed fraud and embezzled the loan amount to the tune of Rs.10.70 crores.

Learned senior counsel appearing on behalf of the applicant submitted that the applicant is innocent and has falsely been implicated in the crime. It is further submitted that the said offence was registered in the year 2020 and the applicant regularly appeared before the investigation officer during the long tenure of the investigation. The investigation is over and the charge sheet has been filed, so custodial interrogation of the applicant is not required. The applicant is a lady. There is no likelihood of her absconding or tampering with the prosecution evidence. The applicant is ready to cooperate in the investigation and trial. In the SAN event of arrest, her reputation will be ruined. In the circumstances, it is prayed that Date: 2022.04.08 16:36:43 IST the applicant be released on anticipatory bail. In support of his contention learned counsel placed reliance on the judgments passed by the Hon'ble Apex Court in the cases of Siddharth Vs. State of Uttar Pradesh & Another, (2022) 1 SCC 676 & Aman Preet Singh Vs. C.B. I. Through Director, 2021 SCC OnLine SC 941 and the orders passed by Division Bench of this Court in M.Cr.C.No.12818/2022 (Arun Kumar Arora Vs. CBI) decided on 11/03/2022 and order passed in M.Cr.C.No.12817/2022 (Suresh Singh Bhadoria Vs. CBI) decided on 11/03/2022.

Learned counsel for the respondent-CBI opposed the prayer and submitted that the applicant and her husband co-accused Ravindra Sharma fraudulently and deliberately issued warehouse receipts (WHRs) knowing fully well that no commodity was kept in the warehouse. The applicant fraudulently issued about 14 warehouse receipts and signed other loan documents knowing fully well that the commodity was not at all kept at her warehouse. The money of other loan amounts was also transferred from the account of borrowers in the saving account of the applicant and also in the account of her husband co-accused Ravindra Sharma, which clearly shows that the applicant was

involved in the crime and prepared forged documents and committed fraud with the Bank, so the applicant should not be released on anticipatory bail.

The facts of the cases Siddharth Vs. State of Uttar Pradesh (supra) and Aman Preet Singh Vs. C.B.I. Through Director (supra), relied upon by the learned counsel for the applicant do not match with the present case. In the above- mentioned cases, Hon'ble Apex Court did not lay down any principle regarding granting anticipatory bail. In these cases Hon'ble Apex Court held that Section 170 Cr.P.C. does not impose an obligation on the officer-in-charge to arrest each and every accused at the time of filing of the charge-sheet. In this case Police filed charge-sheet against the applicant in absence of applicant and even after notice, applicant did not appear before the trial Court on the date fixed as appeared from the record.

Division Bench of this Court in M.Cr.C.No.12818/2022 (Arun Kumar Arora Vs. CBI) decided on 11/03/2022 and in M.Cr.C.No.12817/2022 (Suresh Singh Bhadoria Vs. CBI) decided on 11/03/2022 have not laid down any guideline regarding granting anticipatory bail. In fact, the respective Courts have granted bail to the accused persons considering the peculiar facts and circumstances of those cases. So, on the basis of those judgments/orders, the applicant is not entitled to get anticipatory bail in this case on the basis of parity.

The non-arrest of the applicant during the investigation and the failure of the Investigating Officer to produce him in custody while filing the charge sheet cannot be the sole determinant for deciding whether to grant or refuse anticipatory bail to the applicant. If an accused was not arrested during the investigation, he cannot claim anticipatory bail as a matter of right and the bail application has to be dealt with on settled legal principles wherein non-arrest during the investigation may be treated as one of the favouring factors.

If the non-arrest of the applicant during the investigation and the failure of the Investigating Officer to produce him in custody while filing the charge sheet is to be taken as an absolute rule for granting anticipatory bail, it makes the provisions of section 438 of Cr.P.C. redundant. If the Investigating Officer decides to show favour to an accused of a non-bailable offence, he would not arrest the accused during the investigation. In such a situation, whether the court would be helpless to exercise its judicial discretion conferred upon him under Section 438 CrPC and subjugate his judicial powers to the whims and fancies of the Investigating Officer? It is not so. The jurisdiction to grant bail has to be exercised on the basis of well- settled principles having regard to the circumstances of each case. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and other similar considerations.

From the judgements of the Hon'ble Apex Court passed in the case of Nimmagadda Prasad Vs C.B.I., (2013) 7 SCC 466 it is clear that the economic offences are considered grave offences as it affects the economy of the country as a whole and such offences having deep-rooted conspiracy and involving huge loss of public funds are to be viewed seriously. The economic Date: 2022.04.08

16:36:43 IST offence is committed with cool calculation and deliberate design solely with an eye on personal profit regardless of the consequence to the community. In such types of offences, while granting bail, the Court has to keep in mind, inter alia, the larger interest of the public and State. The nature and seriousness of an economic offence and its impact on society are always important considerations in such a case.

It is alleged that the applicant fraudulently issued about 14 warehouse receipts and signed other loan documents knowing fully well that the commodity was not at all kept at her warehouse and she herself also took loan on the basis of that forged receipts. The money of other loan amounts was also transferred from the account of borrowers in the saving account of the applicant and also in the account of her husband co-accused Ravindra Sharma, which clearly shows that the applicant was involved in the crime and prepared forged documents and committed fraud with the Bank. So, looking to the allegations and the enormity of the fraud, this Court is not inclined to grant anticipatory bail to the applicant.

Accordingly, M.Cr.C. is rejected.

(RAJEEV KUMAR DUBEY) JUDGE as