IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.273 OF 2015

Prasad Vyankatesh Valvekar ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.Harshad Nimbalkar i/b S.H. Nimbalkar for the Applicant
Ms.Veera Shinde, APP, for Respondent – State
Mr.R.P. Waghmare, PC/1844 – Crime branch, Unit 2, Pune City – present

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **APRIL 18, 2015**

P.C.:

1. The application is moved for bail under section 439 of the Criminal Procedure Code as the applicant/accused is prosecuted for the offences punishable under sections 420, 406, 407 r/w section 34 of the Indian Penal Code. The offence is registered at C.R. No.187 of 2014 on 12.6.2014 with Warje–Malwadi police station, Pune. The offence was registered at the instance of one Ashutosh Sadashiv Kulkarni, who had invested money in one firm, namely, Sai Export. It is the case of the prosecution that the applicant/accused alongwith other 2 accused, viz., Sharad Kulkarni and Pramod Chavan, were in the business of exporting fruits and vegetables to Dubai and one person Mr.J.K. Patil had requested the complainant and other persons to invest money in the business of Sai

Exports and, therefore, the complainant and other persons invested amounts in the business of Sai Export as they were promised to receive 7% share in the profits. Accordingly, the complainant received such profit for a few months and thereafter, nothing was paid him. He tried to get his money back. However, he did not get the money and therefore, he lodged complaint against the partners of this firm. Pursuant to the registration of the offence, the applicant/accused was taken in custody on 16.6.2014 and therefore, this bail application.

2. The learned Counsel for the applicant/accused submitted that the applicant/accused has not played any role in this case muchless any role of cheating or misappropriation of the property as alleged. He argued that it was Jayant Patil, who induced others to invest money in Sai Exports. The applicant/accused was a partner of the Sai Exports. But in 2013, he realised that this firm was not having a valid licence of export and, therefore, he resigned from the partnership on 14.6.2013 i.e., one year prior to the registration of the offence. He further submitted that no investor has specifically stated about his role in the business. The other 2 accused persons i.e., Sharad Kulkarni and Pramod Chavan were active and they have cheated the people and not this applicant. The applicant was very passive in the business and was not aware of the other activities of the main accused Nos.1 and 2. In support of his submissions, he relied

on the receipts at exhibit F showing that the accused Sharad Kulkarni has received amounts from him of the money which was deposited in his bank account in the name of Sai Exports. He also relied on release deed dated 26.6.2013.

3. The learned Prosecutor has opposed the application. She relied on the statements of the complainant and other witnesses who have stated that the applicant/accused alongwith other 2 accused and Jayant Patil had respectively visited them and thereafter there was a proposal of investment in the said partnership by the applicant/accused. She submitted that some amounts were shown to be deposited in the account of the applicant/accused. There is a total fraud of Rs.7,46,00,000/- and, therefore, this accused should not be bailed out.

4. Perused the FIR, all the papers, statements of the witnesses. It appears from the statements, that the witnesses have main grievance against the other 2 accused i.e., Sharad and Pramod, who did not return their money. The applicant/accused was arrested immediately after the registration of the offences and he is inside for 10 months. Considering the role played by him and as the witnesses are the investors, evidence is not going to be tampered, I am inclined to grant bail as under:

i) The applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.40,000/-, with one or two sureties in the like amount;

ii) The applicant/accused shall not tamper with the evidence;

iii) The applicant/accused shall not indulge into any kind of offence while on bail;

iv) The applicant shall not leave India without the permission of this Court and shall make himself available on all the dates of Court hearings.

5. Bail application is disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)