IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 599 OF 2015

Pankaj Rajaram Shinde ..Applicant

v/s.

The State of Maharashtra. ..Respondents

WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1532 OF 2015

Nitin Popatrao Shinde & Anr. ..Applicant

v/s.

The State of Maharashtra. ..Respondents

Mr. Ashok Mundargi, Sr. Adv. for the Applicant
Mr. S.S.Pednekar, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : DECEMBER 09, 2015.

P.C.

1. These applications are filed by the aforesaid applicants who are arrayed as accused nos. 2, 3 and 4 C.R.No.154 of 2014 which was registered at Adgaon Police Station for the offence punishable under

Section 406, 420, 465, 468, 471, 474 r/w. 34 of the Indian Penal Code and section 3, 4 MPID. The said crime was registered pursuant to the FIR dt .11.2.2014 lodged by one Eknath Khairna wherein he had alleged that one Bapu Chavan working as Cashier with Nashik District Central Co-operative Bank, had appraised him about the scheme for investing in KBC Company. The said Company had floated a scheme wherein the member who was enrolled in the said scheme was required to make initial payment of Rs.17,200/- and he was assured that he would get and amount of Rs.1,03,500/- after period of three years. The said scheme also provided for commission to the member/agent for enrolling new members in the said Company.

2. The complainant had enrolled himself as a member on 6.2.2013 and had received a certificate to that effect. Apart from the complainant several other members had joined the said Company and each of these members in turn as agent, had enrolled several other new members in the said Company and had invested money in the said Company.

3. The complainant has alleged that he had learnt that a raid had

been conducted on the said Company on 7.3.2014 for conducting the activities under the Prize Chits and Money Circulations Schemes (Banning Act) 1978. Crime.No.3013 of 2014 under Section 4, 5 and 6 of the said Act was accordingly registered against the Directors of the said Company. The bank accounts of the said Company and the other records and documents were seized. Upon learning about the same the complainant and several other investors approached Bapu Chavan, the Director of the Company for refund of the money. The complainant alleged that the Directors of the Company did not pay the assured amount. He, therefore lodged FIR against the Directors and other persons, pursuant to which the above crime came to be registered.

4. Shri Mundargi, the learned Counsel for the applicant submitted that the applicant Pankaj and Sanjay were merely agents like several other agents of the Company, whereas the applicant no.3 Nitin was working as a driver of the said Company. The learned Counsel Shri Mundargi submits that the applicants are not the beneficiaries of the said scheme and that they are arrayed as accused merely because they are related to the Directors of the Company. He has submitted

that this is evident from the fact that about 268 other agents have not been implicated as accused. Learned Counsel Shri Mundargi has stated that the Directors of the Company, the main accused are absconding and considering the allegations against the applicants herein, their presence is no longer required in custody.

5. Mr.Pednekar, the learned APP has submitted that Rs.209 crores has been siphoned off by the said Company by duping 8099 investors. He has submitted that total 19 cases have been registered against the Directors of the Company all over Maharashtra. The learned APP further submits that the applicants were involved in convincing several persons to invest money in the said Company and to enrol themselves as members of the Company.

6. I have perused the records and considered the submissions advanced by the learned Counsel for the applicant and the learned APP for the State. It is true that the material on record prima facie indicates that an amount to the tune of Rs.209 crores has been siphoned of by the Company and that 8099 investors have been cheated for the said amount of Rs.209 crores. It is also not in dispute that the Directors are the main beneficiaries. The Directors who are

in fact involved in commission of the crime are absconding. Look ou and red corner notice is already issued against the said Directo s and the properties worth Rs.70 crores have been seized/ ttached.

7. It is to be noted that the present applicant are not associated with the Company. They were not incharge or running the business of the Company. The applicant no.1 is is the driver, whereas the applicant nos.2 and 3 are mainly the agents who were involved in enrolling several other persons in the Company, and in accordance with the scheme of the Company have received commission for enrolling the members in the Company. It is not in dispute that apart from the applicants, the Company had more than 260 agents, and that the other agents have not been implicated in this crime. This fact prima facie gives an indication that the present applicants have been implicated since they are the relatives of the absconding accused, who are the Directors of the Company.

8. It is stated that the applicants have been released on bail in the other crimes which were registered against them. The applicants are in custody since July 2014. The initial investigation has been

completed and the chargesheet has been filed before the Special Judge, Nashik being Special Case No.3 of 2014. Considering the role attributed to the applicants , in my considered view, the presence of the applicants is not required in custody.

9. Under the circumstances, and in view of the discussion supra, the application for bail is allowed on the following terms and conditions.

i) The applicants are ordered to be released on bail in Special Case No.3 of 2014 pending before the Special Judge, Nashik, on the applicants furnishing bail bond of Rs. 1 lakh each (Rupees one Lakh only) with two solvent sureties in the like amount to the satisfaction of the Special Judge, Nashik.

ii) The applicants shall appear before the Special Judge, Nashik on each and every date of hearing.

(ANUJA PRABHUDESSAI, J.)