FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2112 OF 2015

Anupam Ratnesh Thakur. ...Applicant.
vs.
State of Maharashtra. ...Respondent.

Mr.Shirish Gupte, Sr.Advocate with Mr. Rajiv Patil, Sr. Advocate i/by Randhir Kale for the Applicant.
Ms.S.D.Shinde, APP. for the Respondent State.
Mr. Adhikari, API from EOW Unit I present in court.

CORAM : A.S.GADKARI, J.
DATE : 18.12. 2015

P.C.

This is an application for bail under Section 439 of the Criminal Procedure Code. The applicant is an accused in CR No.93/2014 originally registered with Marine Lines Police Station, Mumbai and subsequently transferred to Economic Offences Wing Unit-I, Mumbai and having renumbered CR No.69/2014 under Section 120 B, 409, 465, 467, 468,471, 420, 506 of the Indian Penal Code.

2) The first informant Shri. Ajay P. Shah has lodged the report dated 28/7/2014. In the said report, it is stated that, the first informant is a Director of P. G. Group of Companies comprising of various companies and the total turn over of the said group of companies is about 500 crores. The complainant manages the affairs of the P. G. Group of Companies in his capacity as a Director,

Promoter or the Authorized Signatory. The complainant has further stated that in or about 2012 one person Mr. Avinash Khandale came to him at his office at Marine Drive, Mumbai and introduced himself as Investment Consultants. The complainant did not show any interest in the proposal presented by the said Mr. Khandale in the first meeting. Subsequently the said Mr. Khandale again went with the present applicant to the office of the complainant and represented to the complainant that they were representative of Nice Investment and Solution of AVP Privilege Business Group. The applicant and the said Mr. Khandale told the complainant that if the P. G. Group of Companies would invest money in banks in terms of fixed deposits through them not only competitive rates of interest would be given by the bank but, will also simultaneously get the substantial benefit to P.G. Group of Companies by arranging investment in shares of P. G. Group of Companies to their known associates at good prices. That, P. G. Group of Companies will retain the fixed deposit receipts at all times till maturity. The applicant along with Mr. Avinash Khandale assured the complainant that if the complainant's company would invest in fixed deposits in bank through them it would be without any risk. The complainant was also made to believe that the original fixed deposit receipts would remain with P.G. Group and there was no risk involved. The applicant and Mr. Avinash Khandale gained the confidence of the complainant and induced him to make first investment of Fixed Deposit of Rs.5.00 crores in the Indian Bank. That, being unaware of their deceitful and fraudulent intention the complainant was believed to invest in various profitable schemes as per the say of the applicant and Mr. Avinash Khandale. The applicant and Mr. Avinash Khandale thereafter told the complainant to open a current account in Dhanlaxmi Bank at Goregaon Branch and the complainant signed the account opening form for M/s. Prem Cables Private Limited of P. G.Group of Companies. With a view to gain confidence of the complainant the applicant and Mr. Khandale in fact made return of certain amounts to the P. G. Group of Companies. Thereafter, the complainant was made to visit Dhanlaxmi Bank, Goregaon Branch on 3 to 4 occasions and the applicant introduced the complainant and then Cluster Head of the Branch Mrs. Amrita Mathews. She assured the complainant that the amounts being invested are secured with the bank and on the maturity dates the amounts will be transferred to the respective current accounts of P.G. Group Companies and she also confirmed that the applicant and Mr. Khandale were having very good relations with the bank and that they were very reliable. That subsequently the said Mrs. Amrita Mathews called the complainant and requested him to make further fixed deposits before the financial year ending. The said Mrs. Amrita Mathews also persuaded the complainant to directly deal with Mr. Vimal Barot, Sr. Advisor for the bank. Subsequently, the co-accused Mr. Vimal Barot and Mr. Amrita Methews approached the complainant in May 2013 for making further deposits. The co-accused Vimal Barot again approached the complainant in May 2013 for further deposit. As the complainant's company did not receive the repayment of the investment in time, he made enquiry and it came to his knowledge that Mrs. Amrita Mathews has left the job of Dhanlaxmi Bank after making fraud and was working as CEO of company of Mr. Vimal Barot from December. Mrs. Amrita Mathews informed the complainant to contract directly to Mr. Vimal Barot for payment. The complainant further stated that he invested a total amount of Rs.141.80 crores in the said Dhanlaxmi Bank and in all 22 fixed deposit receipts were issued. Apart from signing original account opening form the complainant did not sign any other documents. The complainant has specifically stated that though he never authorized any person except himself or his brother Pankaj P. Shah, to operate any of the said accounts. The complainant subsequently realized that the applicant and other accused persons worked hand in gloves with each other and with common intention to cheat the complainant created fake and false documents and instruments including the officers of Dhanlaxmi Bank and Mr. Vimal Barot created fake and false documents, instruments including the fake fixed deposit receipts, letter heads of his company, seals of his company and also purported to have been sent by the bank in relation to the fact that the pending FDRs and maturity value and date and gave clear statement regarding any encumbrances/charge/lien on the said FDRs which made the complainant to believe that his deposits in the form of FDRs. in the said bank are genuine and the said money is secured which was subsequently found to be false. That, by using the said fake, false and fabricated documents all the accused persons defalcated and mis-appropriated the amount invested by the complainant. In the premise, the said first information report is registered.

1. During the course of investigation, it was revealed that initially the applicant introduced the first informant to invest

the amounts in various financial institutions including Dhanlaxmi Bank of which the said co-accused Mr. Vimal Barot was a Senior Advisor. That, after the amount was deposited by the informant by way of fixed deposits the entire amount was misappropriated by creating forged documents and opening over draft account. It was also revealed that the applicant has received a sum of Rs.4.3 crores in the entire crime and has also played vital role in the present crime. After completion of the investigation the police have filed the charge sheet on 24.6.2014 against the applicant and the investigation with respect to other accused persons is still continued.

3) Heard learned Senior Advocate Shri. Gupte for the applicant and the learned APP. I have also perused the copy of the charge sheet and the documents annexed to the present application.

4) The learned counsel for the applicant submitted that the applicant has not played any vital role in the entire crime. He has acted in a bonafide manner. The amounts invested by the complainant through the applicant have been received back by the complainant and the said fact can be discerned from the contents of the statement of the complainant. He submitted that in the first information report itself the complainant has stated that after a particular stage, the other accused person namely Smt. Amrita Mathes tried to persuade the complainant to have a direct transaction/dealing with the co-accused Mr. Vimal Barot, Senior Advisor of the Dhanlaxmi Bank and thereafter there is no role attributed to the applicant in the crime. He further submitted that as

of today the charge sheet is filed. The statements of witnesses were also recorded. That, there is no possibility of the applicant tampering with the evidence. He lastly contended that no purpose will be served by keeping the applicant behind bars. He lastly submitted that if the applicant is released on bail he shall abide by all the conditions imposed upon him. The learned Sr. Counsel has relied upon a decision of the Supreme Court reported in (2012) I SCC 65 in the case of Sanjay Chandra vs. Central Bureau of Investigation.

The learned APP on the other hand submitted that applicant is one of the principal conspirator in commission of the present crime. The applicant along with Avinash Khandale has fraudulently induced the complainant to invest the huge amount with the bank and subsequently those amounts were misappropriated by the applicant and other accused persons in a systematic and well designed manner. The learned APP also brought to my notice the fact that the applicant is also an accused in CR No.81/2014 registered with Economic Offences Wing and in the said crime he has been released on bail by the learned Trial Court by its order dated 16.6.2015. She also submitted the report signed by the Assistant Police Inspector of the Economic Offences Wing, Banking Division-I, Mumbai wherein it has been stated that the applicant is also involved in six other crimes of similar nature and that he has been protected by way of interim relief in anticipatory bail applications preferred by the applicant. She therefore, prayed that the present application may be dismissed.

5) The first information report lodged by the complainant

itself makes it clear that the applicant along with co accused Avinash Khandale in a well designed and systematic manner induced and enticed the complainant to invest huge amounts of his company in financial institutions and in Dhanlaxmi Bank. The said amounts were subsequently defalcated and or mis-appropriated by the applicant in connivance and in conspiracy with other accused persons. The papers of investigation would further reveal that the co accused namely Avinash Khandale initially introduced himself as Head of Marketing of Nice Investment and Solution Company,Western Zone. That, subsequently the said co accused took the applicant to the complainant/informant and introduced him as the owner of the said Nice Investment and Solution Company. The complainant/informant on the basis of the deceitful promises given by the applicant and other co accused got lured of the assurances and made huge deposits in the Dhanlaxmi Bank. The evidence on record further discloses that the amounts so deposited by the complainant were subsequently defalcated/misappropriated by adopting various modes in connivance with the other accused persons namely Mrs. Amrita Methews and Mr. Vimal Barot. During the investigation, it is further revealed that the applicant on 5.11.2012 has collected one K.G. gold from Sumitchandra Jewellers on behalf of the co accused Mr. Vimal Barot. The forged documents used in the present crime have been verified through the handwriting expert and it is revealed that forged documents used for misappropriating the funds of the complainant were not signed by the complainant/informant.

6) There cannot be dispute about the principles enumerated by the Supreme Curt in the aforesaid decision. It is also the settled

principle of law that each and every case has to be decided on its own merits. After taking into consideration the entire evidence available on record, it is clear that the applicant has played a vital role in the present crime being one of the principal conspirator and has actively taken part in luring and or enticing the complainant in parting with huge amount of money under the false representation that the amounts so deposited with Dhanlaxmi Bank will get substantial rate of interest. From the evidence available on record the complicity of the applicant in the present crime is apparent. Apart from the aforesaid facts, it is also to be noted here that the applicant is also involved in CR No.81/2014 registered with Economic offences Wing, Mumbai in which he was released on bail by an order dated 16.6.2014 by the Additional Chief Metropolitan Magistrate. That, the report submitted by the Investigating officer further discloses that apart from the present crime and the said CR No.81/2014 the applicant is also involved in six other crimes of similar nature and there is every possibility, that the applicant may not only tamper with the evidence in present crime but in other cases also wherein he is involved and may also abscond if released on bail. After taking into consideration the evidence available on record in the present crime, the gravity of offence and the involvement of the applicant in other six crimes of similar nature I am of the considered opinion that this is not a fit case to release the applicant on bail. Hence, the application is rejected.

(A.S. GADKARI, J.)