IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2916 OF 2017

Vijay s/o Prabhakar Khodge ... **Applicant**
Age 32 years, Occu: Nil
R/o N-9, K-64/5, Pawan Nagar
HUDCO, Aurangabad

VERSUS

The State of Maharashtra ... **Respondent**
Through CIDCO Police Station,
Aurangabad, Dist. Aurangabad

Mr. M. S. Karad and Mr. A. S. Bangar, Advocate for the applicant
Ms. Rashmi P. Gour, APP for the State.

CORAM : K. L. WADANE, J.

DATE : 10th July, 2017

ORDER:

1. Heard Mr. Karad, learned counsel for the applicant and Ms. Gour, learned APP for the State.

2. This is an application under section 439 of the Criminal Procedure Code in connection with Crime No.I-187/2012 registered with CIDCO Police Station, Aurangabad Dist. Aurangabad for the offences punishable under sections 420, 120 (B) read with Section 34 of the Indian Penal Code and under sections 3 of the Maharashtra Prevention of Interest of Depositors (In Financial Establishment) Act.

3. One Madhukar Badrinath Shinkar lodged complaint with the CIDCO Police Station, Aurangabad on 06.06.2012, alleging therein that the present applicant started a scheme of deposit assuring the investors to pay them double amount within a period of six or nine months and thereby the applicant collected an amount more than Rs.6 crores during the period from 2008 to 2012. By joining hands with other persons, the applicant had cheated various investors who invested their money in the company by name Swami Samartha Investment Services Pvt. Ltd., by doing the business of chit-fund. On the basis of information, the offence came to be registered against the applicant and his family members as stated above.

4. I have gone through the papers of investigation including the copy of the First Information Report. On perusal of the same, it appears that the applicant had shown temptation about the good return on investment and has collected huge amount from various investors to the tune of Rs.6 crores. Further, it is seen that

various investors have invested their hard earn money in lakhs. However, the applicant failed to repay even the amount invested by the investors by saying them that his bank account is seized by the Income Tax Ofice, Pune. Subsequently the applicant and other accused persons were absconded.

5. The accused was arrested and was remanded to MCR. The applicant moved the learned Additional Sessions Judge for bail, however, it is rejected.

6. During the course of argument, the learned APP submits that under various provisions of the MPID Act, the process of attachment of the property of the applicant is going on and if he is released on bail, he will dispose of the property or there will be hurdle in the investigation.

7. From the record, it is seen that the offence under sections 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (MPID Act) is also registered. Therefore, it is necessary to refer the statement of object and reasons of the said Act, which reads thus:

“There is a mushroom growth of Financial Establishments in the State of Maharashtra in this recent past. The sole object of these Establishments is of grabbing money received as deposits from public, mostly middle class and poor on the promises of unprecedented high attractive rates of interest or rewards and without any objection to refund the deposit to the investors on maturity or without any provision for ensuring rendering of the services in kind in return, as assured. Many of these Financial Establishments have defaulted to return the deposits on maturity or to pay interest or render services in kind, in return, as assured to the public. As such deposits run into crores of rupees, it has resulted in great public resentment and uproar, creating law and order problem in the State of Maharashtra, specially in city like Mumbai which is treated as the financial capital of India. It is, therefore, expedient to make a suitable legislation in the public interest to curb the unscrupulous activities of such Financial Establishments in the State of Maharashtra.

As both the Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that

> the circumstances exist which render it necessary for him to take immediate action to make a law for the purpose of aforesaid, this Ordinance is promulgated.”

8. Bare perusal of the statement of object and reasons of the MPID Act goes to show that same is enacted in the public interest to curb the unscrupulous activities of financial institutions, established with sole object of garbing the money received from the depositors, who are mostly from middle class and poor strata of the society.

9. From the record, prima facie, it appears that the applicant siphoned the money of poor investors in crores. In such circumstance, considering the nature of offence, its gravity and the amount involved in the offence, I am of the opinion that the applicant is not entitled for bail. Hence the criminal application is rejected.

(K. L. WADANE, J.)

JPC