**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**BENCH AT AURANGABAD**

**908 CRIMINAL APPLICATION NO. 4083 OF 2017**
**WITH**
**CRIMINAL APPLICATION NO. 4084 OF 2017**
**WITH**
**CRIMINAL APPLICATION NO. 4130 OF 2017**
**WITH**
**CRIMINAL APPLICATION NO. 4286 OF 2017**
**WITH**
**CRIMINAL APPLICATION NO. 4132 OF 2017**

1. Jairaj Harishchandra Pednekar
2. Chintan Jitendra Acharya
3. Alkesh Donarrao Dave
4. Harsh Parthusinh Jhaveri
5. Vishal Ashok Jagasheth … Applicants

Versus

The State of Maharashtra … Respondent

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Mr. Nilesh Tribhuvan h/f Mr. Abhay Ostwal a/w Mr. N.B. Narwade a/w Ms. Alisha Pinto, Advocate for Applicants.
Mr. A.D. Namde, A.P.P. for Respondent-State.

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**CORAM : V.L. ACHLIYA, J.**
**DATED : 21st NOVEMBER, 2017.**

**ORAL ORDER:**

. The applicants herein are seeking release on bail in connection with offences registered against them u/s 406, 420, 467, 471 & 120(B) of Indian Penal Code and Section 3 and 4 of Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (hereinafter referred to as "MPID") vide Crime No.0212/2017 with Kranti Chowk Police Station, District Aurangabad.

2. Heard the learned counsel for the applicants and learned A.P.P. for the State and the counsel representing the informant.

3. In short, it is the contention of learned counsel for applicants that the investigation of case is over and charge-sheet is already filed. The offences for which the applicants are charged are not punishable with life or death. He further submits that the evidence as relied by the prosecution being based upon the documentary evidence, there is no question of tampering prosecution witnesses in the event of release of applicants on bail. He further submits that, the applicants have no criminal antecedents. The applicants are the employees of M/s. Anil Limited Company (hereinafter referred as "Company") which have defaulted in returns of deposits of informant and others. The applicants being employees are not concern with return of amount involved and dispute of informant with Directors of Company. He further submits that the dispute which is purely civil in nature has been given colour of criminal case. He further submits that none of the offence is attracted against the applicants. In quashing proceedings filed vide Criminal Application No.5882/2017, by the Directors and the former Directors of said Company the settlement has arrived at between Directors of Company and the traders as regards to

refund/repayment of money. The Directors of the Company have agreed to pay to traders the amount to the tune of Rs. 13,58,00,000/- (Rupees Thirteen Crores Fifty Eight Lakhs) as against the amount of Rs. 12,00,00,000/- (Rupees Twelve Crores) claimed to be payable to them. Pursuant to the settlement, the Demand Draft of 3.40 Crores already handed over to the informant and other traders. Balance amount is going to be paid on before 15.5.2018 as per the terms of settlement arrived at between them. In this background, the learned counsel urged to enlarge the applicants on bail.

4. Learned A.P.P submits that, in view of the settlement arrived at in between the Directors and complainant order passed in Criminal Application No.5882/2017, appropriate order may be passed in the matter.

5. Learned counsel representing the informant also submits that in view of settlement, arrived at between Directors of Company and depositors the applicants be enlarged on bail subject to certain conditions. Learned counsel submits, in order to ensure that the balance amount is paid as per terms of settlement, the applicants be put to conditions that they shall not leave the country except without seeking prior permission of Court and to deposit their passport before the Sessions Court.

6. On due consideration of the submissions advanced in the light of nature of allegations and offences registered against the applicants, role of applicants in the commission of offence as an employees M/s. Anil Limited Company, I am of the view, the applicants deserves to be enlarged on bail. The offences charged against the applicants are not punishable with life or death. The maximum punishment provided for the offences charged against them is seven years. The applicants are lying in jail since more than six months. The investigation is completed. The applicants have no track record of involvement in similar types of offences. It is nowhere the case of the prosecution that if the applicants are released on bail, they may abscond.

7. At this stage it is not desirable to make any observation as to overall case of the complainant against applicants. However, prima facie there appears to be force in the submission of learned counsel for the applicants that a dispute of civil in nature has been given colour of criminal case. Now the settlement has taken place between the Directors of the company with informant and other traders whose money alleged to have been not refunded by said Company. Pursuant to the settlement and part payment made to informant and other traders. The Division Bench of this Court ( S.S. Shinde and N.S. Patil, JJ.)

while passing order dated 9.11.2017 in Criminal Application No.5882/2017 has made following observations:

> *"4. Needless to observe that on the basis of further delopments/settlement arrived between the parties, the concerned Court to consider the prayer of the accused who are in jail in Special Case (M.P.I.D.) No.2 of 2017, for releasing them on bail, in accordance with law."*

8. In view of above, I am inclined to allow the application and pass the following order:

:**ORDER:**

i) The application is allowed.

ii) The applicants, vis-a-vis Mr. Jairaj Harishchandra Pednekar , Chintan Jitendra Acharya, Alkesh Donarrao Dave, Harsh Parthusinh Jhaveri and Vishal Ashok Jagasheth, lying arrested in connection with offence punishable u/s 420 and 406 r/w 120(b) of Indian Penal Code and Section 3 and 4 of Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 vide Crime No.0212/2017 with Kranti Chowk Police Station, District Aurangabad. (hereinafter referred to as "MPID"), be released on bail on each of them furnishing bail in the sum of Rs. 15,000/- with one surety and like amount with following conditions:

(a) The applicants shall not leave the country without seeking prior permission of the Court.

(b) The applicants shall not indulged into any act amounting to tampering of prosecution witnesses.

(c) The applicants shall furnish the names and addresses of their three close relatives with their phone numbers.

(iii) The applicants be temporarily released on furnishing cash bail in the sum of Rs. 25,000/- each with undertaking that they shall furnish bail as directed within four weeks from the date of this order.

iv) In the event of breach of any of the conditions of bail, the bail granted to the applicants liable to be cancelled.

(v) Parties to act on an authenticated copy of this order.

**(V.L. ACHLIYA, J.)**

Sameer/Nov-17