IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1383 OF 2017

Vikas Murlidhar Talvanekar Applicant
versus
The State of Maharashtra Respondent

Mr.Sandeep Karnik for Applicant.
Mr.A.R.Kapadnis, APP, for State.
PSI Hatle, Dadar Police Station, is present.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 10th July 2017

PC :

1. This is an application for bail in connection with CR No.245 of 2016 registered with Dadar Police Station, Mumbai. The first information report (`FIR') was registered on 7th June 2016 for offences under Section 420 read with 34 of Indian Penal Code as well as Section 3 of Maharashtra Protection of Interest of Depositors Act.

2. The Applicant was arrested on 30th August 2016. The investigation is completed and charge sheet has been filed. The prosecution case is that the Applicant had induced the depositors to invest their money with a promise that 5% interest per month will be given to them. On this representation several depositors invested the money. It is alleged that the Applicant-accused had an account of Kotak Mahindra Bank Limited and HDFC Bank. On verification of the said accounts, it was noticed that in respect to the investment

made by the depositors, the Applicant had paid some amount towards interest. It is also noticed that the accused had invested the amount so collected, in share trading with various share brokers, such as, Anand Rathi, Religear, Angel Broker, Motilal Oswal etc. It is alleged that the investors did not receive the amount as promised by the Applicant and thereby they suffered losses. Learned advocate for the Applicant submits that there was no intention to cheat the investors. It is submitted that the FIR itself mentions that the deposits accepted by the Applicant from the investors, were traded in share market and in the share companies, as stated above. It was submitted that the fact that interest was paid to the investors would show that the Applicant did not have intention to cheat the investors. The reason of loss caused in the share market was beyond the hands of Applicant. It is further submitted that the promises of repayment given by the Applicant were not feasible and practically possible. It is submitted that the Applicant is in custody from the date of arrest and the charge sheet is already filed. The offence under Section 420 of Indian Penal Code is punishable with seven years and maximum punishment for offence under Section 3 of MPID Act is about six years.

3. Learned advocate for the Applicant, therefore, submitted that the Applicant is in custody since last about eleven months and there is no likelihood of commencement of trial immediately. It is further submitted that although in the order rejecting the application bail the Sessions Court has observed that the matter is kept for framing issue, no charge has been framed in this case till today. He submitted that noting made by the Trial Court that the case is kept for framing charge, is made in routing course.

4. Learned APP opposed the application for bail. He submitted that the Applicant is involved in serious crime causing loss to the investors to the tune of Rs.1,21,75,000/-. The Applicant had only paid an amount of Rs.32,71,950/- and the principal amount of the investors is yet to be paid. He submitted that the Applicant was not having any property for the purposes of attachment and he has no permanent place of residence. It is further submitted that the Applicant will not be available for trial if released on bail.

5. Perused the charge sheet which has been annexed to this application. From the FIR it is apparent that the Applicant had allegedly accepted the amounts towards investment from investors. It is also apparent that interest was paid to the investors and that the Applicant had invested the amounts in share trading. It, therefore, appears that the Applicant had paid interest to the investors and also invested the money collected by him in share trading. The Applicant is in custody from 30th August 2016 and the charge sheet has been filed. Further detention of the Applicant is not necessary. By keeping the Applicant in custody, there is no question of any recovery from him at this stage. The trial may not commence and conclude within a short span of time.

6. In view of this, bail can be granted to the Applicant. Hence, I pass following order :

ORDER

(i) Bail Application No.1383 of 2017 is allowed;

(ii) The Applicant is directed to be released on bail in connection with CR No.245 of 2016 registered with Dadar Police Station on furnishing PR bond in the sum of Rs.50,000/- with one or more sureties in the lime amount;

(iii) The Applicant is directed to report the investigating officer of Dadar Police Station once in a month on first Saturday of every month between 11.00 a.m. and 1.00 p.m. till further orders;

(iv) The Applicant is directed to furnish his residential address and mobile number to the investigating officer;

(v) The application is disposed of.

(PRAKASH D. NAIK, J.)

MST