IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1755 OF 2016

1. Bapu Chabu Chavan
2. Nanasaheb Chabu Chavan ...Applicants

Versus

The State of Maharashtra ...Respondent

Mr. A. P. Mundargi, Sr. Counsel I/b Mr. Jayant Joseph Bardeskar for the Applicants

Mr. Rajan Salvi, A.P.P for the Respondent-State

PI Mr. Vijay Panhale from E.O.W., Nashik City is present.

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 18th APRIL, 2017

P.C. :

1. Heard learned Senior Counsel for the applicants and the learned A.P.P for the State.

2. By this application, the applicants seek their enlargement on bail in connection with C.R. No. I-154 of 2014 registered with the Adgaon Police Station, Nashik, for the alleged offences punishable under Sections 420, 465, 467, 406, 468, 471, 474 r/w 34 of the Indian Penal Code and under Sections 3 and 4 of the the Maharashtra Protection of Interest of Depositors' Act.

3. Mr. Mundargi, learned Senior Counsel submits that KBC Club and Resort Pvt. Ltd. was incorporated on 18th January, 2010 and that the applicant No. 2 was admitted as a Director of the said Company on 17th December, 2014. He further submitted that the applicant No. 2 resigned from the said Company as a Director in February, 2014 after about three months and that the FIR in the said case was registered on 11th July, 2014. He further submitted that the applicants have been in custody since July, 2014 and have undergone almost 50% of the maximum sentence, that can eventually be awarded, for the offences with which they are charged. He submitted that out of 11 accused, 6 have been enlarged on bail. He further submitted that 23 identical cases were registered as against the applicants along with other co-accused with various police stations and that the applicants have been enlarged on bail in 21 cases. He further relied on a chart which is on page 1223 of the application to show that the applicant No.1 had invested Rs. 25,98,950/- and had received benefits worth Rs. 59,42,380/-, whereas, applicant No. 2 had invested about Rs. 76,03,100/- and had received benefit of Rs. 1,46,11,750/-. He submitted that properties worth Rs. 70 crores have been attached by the police. Learned Senior

Counsel also submitted that no offence of forgery or fabrication of documents is disclosed in the said case.

4. Learned A.P.P opposed the application. He submitted that co-accused Bhausaheb Chavan and Arti Chavan have been arrested one year back. He further submitted that the fraud is to the tune of Rs. 212 crores, whereas, the property which is attached is about Rs. 70 crores. Learned A.P.P is unable to show fabrication or forgery of any documents. His only submission is that the cheque which was issued was for Rs. 2 crores though the amount mentioned on the cheque was `20 lakhs and under' and as such the cheque could never have been honoured. Learned A.P.P submits that the police intend to file a supplementary charge-sheet under Section 173 (8) of the Code of Criminal Procedure.

5. Perused the papers. The applicants were the Directors of KBC Club and Resort Pvt. Ltd. As far as the applicant No. 2 is concerned, he was a Director for a period of three months i.e. from 17th December, 2013 to February, 2014. According to the complainant-Eknath Khairnar the said Company had introduced various investments Schemes. He has alleged

that it was disclosed to him, that if a person invested Rs. 17,200/- in the Scheme, then after three years, the investor would get a sum of Rs. 1,03,500/- and if a further additional Rs. 17,200/- was invested, then after three years, Rs. 41,000/- would be given to the investor and the investor would be enrolled as a member of KBC. According to the complainant, the said company issued two vouchers in his favour, for Rs. 1,03,500/- and for Rs. 41,000/-. According to the complainant, he had invested Rs. 34,400/-, on the assurances given by the accused. According to the complainant, he learnt that raids were conducted on KBC and also learnt that none of the investors were given the amounts as assured and hence, he lodged a complaint as aforesaid.

6. The applicants have been in custody since July, 2014. The maximum sentence that can be awarded for the offence under Section 3 of the Maharashtra Protection of Interest of Depositors' Act is 6 years; for the offence punishable under Section 420 of the Indian Penal Code, is 7 years; and 3 years for the offence punishable under Section 406 of the Indian Penal Code. The applicants have been in custody for about 2 years and 9 months; properties worth Rs. 70 crores have been attached by the police;

some of the co-accused who were the employees of the said Company, have been enlarged on bail. It is also not in dispute that the applicants have been enlarged on bail in 21 cases out of the 23 cases, which are all similar in nature. It also appears that the police intend to file a supplementary charge-sheet under Section 173 (8) of the Code of Criminal Procedure in the said case and hence, even the prospect of the trial commencing soon, appears to be bleak.

7. Considering the aforesaid, the application is allowed and the applicants are enlarged on bail on the following terms and conditions :

ORDER

(i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs. 1,00,000/- each, with one or two solvent sureties in the like amount;

(ii) The applicants shall attend the concerned Police Station on the first and third Monday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;

(iii) The applicants shall deposit their passports within one week of their release, with the concerned Investigating Officer, if not deposited earlier;

(iv) The applicants shall not leave the Country without prior permission of the trial Court;

(v) The applicants shall inform their permanent as well as latest place of residence and mobile contact numbers and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(vi) The applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vii) The applicants to cooperate with the conduct of the trial;

(viii) The applicants to file an undertaking in the trial Court with regard to clauses (ii) to (vii) within one week of their release;

(ix) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicants' bail.

8. The application is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.