**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICTION NO.1834 of 2018

Parikshit Sunil Aurangabadkar ...Applicant.

Vs.

State of Maharashtra ...Respondent.

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Mr. Amit Date i/by Sagar V. Kasar for the Applicant.
Mr. Ajay Patil, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.
DATE : 21st November, 2018

PC :

1. This is an application under Section 438 of the Code of Criminal procedure for pre-arrest bail in CR No.I 224 of 2018 dated 20.7.2018 registered with Sarkarwada Police Station, District Nashik under Sections 420, 409, 406 read with 34 of the Indian Penal Code and under Sections 3 and 4 of the MPID Act.

2. Heard Shri. Date, the learned counsel appearing for the applicant and the learned APP. for the State. Perused the entire record of investigation produced by the prosecution.

3. The first information report is lodged by Advocate Mrs. Pallavi H. Ugaonkar Kenge on 19.7.2018. It is the case of the prosecution that, co-accused Mahesh Mirajkar along with other accused persons formed a company by name Mirajkar Saraf and Gems Private Limited and floated various schemes of deposit through the said company. As per the scheme floated by the said company, an investor was to either deposit gold or cash amount with the said firm and on the said deposit, it was guaranted to give rich interest/dividend thereon. It is alleged that, the applicant being a professional Chartered Accountant along with other accused persons induced the informant in depositing huge amount and also induced to deposit the gold approximately weighing 903 grams (including the ornaments of her relatives)with the said firm. As noted earlier the accused persons in the present crime had assured the investors to pay rich dividends and had induced investors to deposit money with the said firm by painting rosy pictures. As the applicant and other persons have

failed to return the amount along with interest accrued thereon, after the period of deposit is over and in fact avoided and dodged to make the said payment, left with no other alternative the first informant lodged the present crime. The first informant has categorically stated that she and her close relatives in view of the assurance given by the applicant and other persons have deposited a total sum of Rs.1,22,00,000/- with the said firm. In the premise, the first information report is lodged.

4. Mr. Date, the learned counsel appearing for the applicant submitted that, the applicant except being a statutory auditor of the said firm has no other role to play with the affairs of the firm. He further submitted that, the applicant denies that he ever induced the first informant or any other witnesses to part with the valuable consideration to co-accused or to the firm. He further submitted that, as a matter of record the applicant after recording the fact of gloomy economic condition of the said firm resigned from his auditor-ship. Mr. Date on instructions from the applicant submitted that, whatever amount his client has received from the said firm are the professional charges for the professional work carried out by his client. He submitted that the said amount cannot be construed as proceeds

of the crime. He further submitted that, the said amount was transferred from the account of the firm to his account being the professional charges. He therefore, prayed that the applicant may be protected by per-arrest bail.

5. Per contra, the learned APP. appearing for the State vehemently opposed the application and produced before me the entire record of investigation. He submitted that the investigation carried out till date clearly indicates the involvement of the applicant in the crime along with other accused persons and therefore, the custodial interrogation of the applicant is necessary for revealing the entire truth behind the crime. He therefore, prayed that the present application may be rejected.

6. A bare perusal of the first information report would indicate that, the applicant at the first instance induced the first informant to deposit her hard earned money with the firm of the co-accused namely Mirajkar Saraf and Gems Pvt. Ltd. He on behalf of the said firm also gave assurance to her. It further clearly reveals that, when the co-accused were unable to return the amount to the informant and when the informant approached the co-accused in that behalf, the applicant dissuaded her from adopting legal remedy by giving reason that, due to income tax raid, firm is in

difficulty and was unable to make the payment. The record of investigation carried out till date indicates that, there are other witnesses who have categorically stated that , the applicant along with other accused persons gave in depth information about the various schemes floated by the firm for investing the amount therein. The witnesses after getting representation given by the applicant and other accused persons have invested either in gold or in cash amount with the said firm. The police have also seized the Memorandum of Understanding dated 10.4.2014 executed between the said firm namely Mirajkar Saraf and Gems Pvt. Ltd. and the first informant wherein the applicant, while identifying the signatures of the executors of the said M.O.U. has represented himself to be the Managing Director of Mirajkar Saraf and Gems Pvt. Ltd. Prima facie it appears that there is more than sufficient material available on record to show the clear complicity of the applicant in the present crime.

7. The investigation carried out till date reveals that, there are 1009 victims who have been duped by the firm for approximately an amount of Rs.26,6,25,342/-.The record further indicates that the applicant is recipient of about Rs.11.00 Crores rupees which according to the

prosecution are the proceeds of crime and the said amount is yet to be recovered by the police from the applicant. Apart from the aforesaid fact the investigation discloses that, the gold weighing 25,515 grams is also involved in the present crime.

8. The Hon'ble Supreme Court in the case of Nimmagadda Prasad vs. Central Bureau of Investigation reported in (2013) 7 SCC 466 in Para 25 has observed as under.

"Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as a grave offence affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country."

Undoubtedly, the present crime is economic offence and needs to be dealt with separately.

10. After taking into consideration the gravity of the offence, serious allegations against the applicant and the need of thorough investigation of the applicant by the police to unearth the entire truth behind the crime this

Court is of the considered view that the applicant does not deserve to be protected by pre-arrest bail.

Application is accordingly rejected.

11. At this stage, Mr. Date, the learned counsel appearing for the applicant submitted that, the applicant is intending to challenge the present order before the Supreme Court and therefore, the interim relief granted earlier may be continued for a period of two weeks from today. Accordingly, the interim relief granted by Order dated 7.9.2018 is extended by two weeks from today.

**(A.S.GADKARI, J.)**