

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3024 OF 2017

WITH

BAIL APPLICATION NO. 3026 OF 2017

WITH

CRIMINAL APPLICATION NO. 390 OF 2018

IN

BAIL APPLICATION NO. 3026 OF 2017

Vinay Prabhakar Phadnis

..Applicants.

vs.

The State of Maharashtra

...Respondent.

Mr. Rajiv Patil, Senior Advocate with Mr. Prashant Relekar i/by K.S.Patil
for the Applicant.

Mr. Ajay Patil, APP. for the State.

CORAM :A.S.GADKARI, J.

DATE : 26th November, 2018

P.C.

1. These are applications under Section-439 of the Code of Criminal
Procedure for bail.

Bail Application No.3024 of 2017 is filed in CR No 58/2017
registered with Alankar Police Station, District Pune, under Section 420,

406 read with 34 of the Indian Penal Code and under Section 3 of the MPID Act.

Bail Application No. 3026 of 2017 is filed in CR No. I-263-2016 dated 30.9.2016 registered with Mumbai Naka Police Station, District Nashik under Sections 120-B, 420, 407, 409 read with 34 of the Indian Penal Code and under Section 3 of the MPID Act.

2. Heard Shri. Rajiv Patil, the learned Senior counsel appearing for the applicant and the learned APP. Perused the entire record.

The prosecution case in brief is that, the applicant and his family members by floating 19 companies induced the depositors to deposit amounts with a promise that, investors will get hand sum returns on it. The applicant and other accused persons subsequently failed to honour their promise and have defalcated huge funds invested by the investors.

During the course of investigation the applicant was arrested on 30.9.2016 and after completion of investigation the police have submitted charge sheet.

3. The record indicates that in the crime registered with Alankar Police Station, Pune bearing CR No. I-58 of 2017 (Bail Application No. 3024 of

2017) there are 342 victims who have been allegedly duped to the tune of Rs.18,85,60,139/-.

As far as crime registered with Mumbai Naka Police Station, Nashik bearing CR No. I- 263 of 2017 (Bail Application No.3026 of 2017) is concerned, 900- victims to the tune of Rs 30,85,43,000/- have been duped.

The learned APP. on instructions submitted that approximately an amount of Rs.283 Crores is involved in the present crimes committed by the applicant. He further on instructions submitted that, the applicant is also involved in one more crime bearing CR No.126/2017 registered with Mondhwa Police Station under Section 406, 420 of the I.P.C. and under Section 13(4) of the MOFA Act.

4. Mr. Patil, the learned Senior counsel appearing for the applicant submitted that, this Court by its Order dated 6.8.2018 has granted bail to the applicant in CR No. I-145 of 2017 dated 27.4.2017 registered with Naupada Police Station, Thane under Sections 420, 409, 120 B of the Indian Penal Code read with Section 3 and 4 of the MPID Act. That the immovable property involved in the present crime has already been seized by the competent authority and the competent authority is liquidating the

same for the benefit of the investors. He submitted that, no fruitful purpose will be served by further keeping the applicant behind the bars and therefore, the applicant be released on bail.

5. At the out set, it is to be noted here that, the applicant is involved in three crimes namely CR No. I-145/2017 registered with Naupada Police Station, Thane; CR. No.58/2016 registered with Alankar Police Station, Pune (Bail Application No.3024 of 2017) and CR No. I-263/2016 registered with Mumbai Naka Police Station, Nashik (Bail Application No.3026 of 2017). The record clearly indicates that, the applicant is the master mind behind all the crimes. It is clear that the applicant by adopting similar modus operandi has committed two other crimes of similar nature i.e. those are present crimes. The prosecution has expressed apprehension that, if the applicant is released on bail he will tamper with the evidence and/or leave the jurisdiction of the concerned police stations.

6. 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 crimes are economic offences and needs to be dealt with separately.

7. In view of the fact that, the applicant is involved in one more crime of similar nature and more than 1000 investors have been duped for their hard earned money by painting rosy picture of excellent interest on their investment, this Court is of the considered view that, the applicant does not deserve to be released on bail.

Both the applications are accordingly rejected.

8. In view of the above order, the Criminal Application No.390 of 2018 in B.A. No.3026 of 2017 for intervention does not survive and is accordingly disposed off.

9. It is further to be noted here that, at the time of passing of the Order in BA No.3010/2017 dated 6.8.2018, the fact that the applicant is also

involved in three other crimes of similar nature was not brought to the notice of this Court and therefore, this Court passed the said Order dated 6.8.2018 without taking into consideration the involvement of the applicant in other three crimes.

9. It is the settled position of law that an Order obtained by suppressing material facts and by playing fraud upon the Court should not remain in force even for a minute. That, the Court has inherent powers to recall such Order secured by fraud or mis-representation. Reliance is placed on the decisions of the Hon'ble Supreme Court in the case of, S.P. Chengalvaraya Naidu Vs. Jagannath reported in 1994(1) SCC Page-1 : A.I.R. 1994 SC Page 853 and United India Insurance Co. Ltd. vs. Rajendra Singh reported in 2000 (3) SCC Page 581.

10. In view thereof, by taking suo moto cognizance of the same, this Court issues notice to the applicant as to why bail granted to him by Order dated 6.8.2018 in B.A. No. 3010 of 2017 should not be cancelled.

10. The learned APP. on instructions submitted that, the applicant is presently lodged in Nashik Road Central Prison. The prosecution agency is

hereby directed to serve the present notice to the applicant at Nashik Road Central Prison.

Notice is made returnable on 4.1.2019.

(A.S. GADKARI, J.)