IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.892 OF 2019

Sakharam Shankar Pawar & Ors. .... Applicants

versus

The State of Maharashtra .... Respondent

WITH
CRIMINAL BAIL APPLICATION NO.1266 OF 2019

Kishan Sakharam Pawar & Ors. .... Applicants

versus

The State of Maharashtra .... Respondent

…....

- Mr.D.D. Rananaware, Advocate for Applicant in BA No.892/19.
- Ms.S.S. Kaushik, APP for the State/Respondent in BA No.892/19.
- Mr.Vikas Shivarkar i/b. Mr.Pravin Dabade for Applicant in BA No.1266/19.
- Mr.Prashant Jadhav, APP for the State/Respondent in BA No.1266/19.
- Mr.Ashok Shivaam Patil, PI, Vadju Police Station present.

CORAM : SARANG V. KOTWAL, J.
DATE : 12th JULY, 2019

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.311/16 registered with Vaduj Police Station, Satara, under sections 420 r/w 34, 506 of the Indian Penal Code and under section 3 of Maharashtra Protection of Interest of Depositors (in Financial Establishments), Act 1999 (for short 'MPID' Act) and under section 39 of the Maharashtra Money Lending Act, 1946. Since both these applications arise out the same offence resulting in the same investigation and in filing of the same charge-sheet they are being decided by this common order.

2. The FIR in this case was lodged by one Milind Gaurihar Deshmukh on 07/12/2016. He has stated that, in the month of August 2011, the Applicant Kishan Sakharam Pawar met him and told him that members of their community were conducting a scheme known as Bhishi since past 20 years. It was a scheme in which the investors could invest their amounts and would get handsome returns. The informant was told that if he was to

invest Rs.5,000/-, he would get Rs.19,000/- after five years. Believing him, the first informant gave him Rs.5,000/- and he was expecting Rs.19,000/- in the month of August 2016. However, after the date of maturity, the first informant did not get back his money or the promised returns. Therefore he enquired with the Applicant Kishan Sakharam Pawar and he was told that the members Sakharam Shankar Pawar, Suresh Baburao Pawar and Dadaso Shankar Pawar are the members of that scheme. After receiving the money, they used to give loan to people and used to obtain interest on such loans. In this manner, they used to earn money and which was used to make payments to the investors. Since the Applicant did not get back his money, he made further enquiry and he came to know that there are many others like him, who had made investments in the scheme of the Applicants and were not given their returns. On these allegations, the FIR was lodged.

3. The investigation was carried out. All the Applicants in both the applications were arrested on 21/09/2017 and since then they are in custody.

4. The investigation as reflected in the charge-sheet and supplementary charge-sheet, shows that the present Applicants and other accused had started the scheme as mentioned in the FIR. Initially, in the year 2004 and 2006 they had collected around Rs.35,95,000/- and they had used that amount to give loan to others at extremely high rate of 20-30% per annum. After obtaining the interest on that amount it was utilized for making payment to the investors. Thus, they had won confidence of large number of people in the area. The scheme went on further and their investors increased in numbers. During all these, the accused and other Applicants earned handsome amounts themselves and utilized it for purchasing huge properties. However, finally the investors were not given back their money or the interest as promised by the Applicants.

5. The Applicant Kishan Pawar had collected Rs.13,55,000/- and he had obtained loan to the tune of Rs.12,45,000/- from that scheme. The Applicant Sakharam Pawar had collected Rs.15,65,000/- and had obtained loan of

Rs.9,85,000/-. The Applicant Suresh Baburao Pawar had collected Rs.7,40,000/- and had obtained loan of Rs.1,50,000/-. The Applicant Dadaso Shankar Pawar had collected Rs.7,30,000/- and had obtained loan of Rs.7,77,000/-. The Applicant Sarjerao Baburao Pawar had collected Rs.1,60,000/- and had obtained Rs.11,55,000/-. The Applicant Raosaheb Vasant Kamthe had collected Rs.2,45,000/- and had obtained loan of Rs.13,20,000/-. The Applicant Vitthal Anna Chavan had collected Rs.3,55,000/-.

6. Heard learned Counsel Mr.D.D. Rananaware for the Applicant in BA No.892/19, learned Counsel Mr.Vikas Shivarkar for the Applicant in BA No.1266/19 and learned APP Ms.S.S. Kaushik for the State in BA No.892/19 and learned APP Mr.Prashant Jadhav for the State in BA No.1266/19.

7. All the learned Counsel for the Applicants submitted that the Applicants are already in custody since September 2017. The investigation is already over. They submitted that this Court in the case of Shankar Kashinath Pawar and another had

granted bail vide order dated 09/08/2017 passed in Criminal Bail Application No.633/17. In that case, the Applicant/Accused Shankar Pawar had collected amount of Rs.20.25 lakhs and had taken loan of Rs.8.22 lakhs. Similarly, the other Applicant/Accused Sanjay Pawar had collected Rs.25.85 lakhs and had taken loan of Rs.17.45 lakhs. Some properties of those two Applicants were attached.

8. Both the learned Counsel for the Applicants relied on this order to contend that the present Applicants' case stands on the same footing as that of the Applicants who were granted bail in Bail Application No.633/17. Both the learned Counsel therefore claim parity for release of present Applicants on bail.

9. As against these submissions the learned APP Ms.Kaushik pointed out that a large number of people were cheated by all these accused and therefore that should be taken into account while deciding this application for bail.

10. I have considered the submissions advanced by both the parties. The learned Counsel for the Applicants are right in submitting that the case of the present Applicants stand on the same footing as those of other accused Shankar Pawar and Sanjay Pawar who were granted bail vide order dated 09/08/2017 passed by this Court in BA No.633/17. Even those accused had collected money from various people and had obtained loan. So far as attachment of property is concerned, the provisions under MPID Act are clear enough and they can be effectively implemented to attach the properties of the present Applicants as well. For that purpose, further custody of the present Applicants may not be necessary. The Applicants are already in custody since 2017. Maximum punishment provided under sections applied in this case is 7 years for offence punishable u/s 420 and 6 years for the offence punishable u/s 3 of MPID Act. The Applicants thus are in custody for almost 2 years. The Applicants have made out a case for their release on bail during the pendency of the trial. Hence, the following order :

<u>ORDER</u>

(i) The Applicants are directed to be released on bail in connection with C.R.No.311/16 registered with Vaduj Police Station, Satara, on their furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each, with one or two sureties each, in the like amount.

(ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)