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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1078 OF 2018

Deepak Shrikant Aggarwal

..Applicant.

V/s.

The State of Maharashtra

..Respondent.

Smt. Sushma Nair for the applicant.

Mr.S.H.Yadav, APP for the respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATE : FEBRUARY 11, 2019

P.C.:-

Heard learned counsel for the applicant and learned APP for the State.

2. Applicant, director of M/s.Dheer Kuries Pvt. Ltd. was incorporated under the Companies Act, 1956 with an object of carrying on business of conducting chits (auction and other chits) daily, weekly, bi-weekly, monthly, quarterly basis and at such intervals as the company may decide from time to time. A complaint came to be preferred by one Dr.Prashant Bhosale alleging that chit fund / amount which was invested with the said company of applicant was neither

returned nor the benefits thereon were passed on to him.

3. The applicant came to be arrested on December 16, 2015 in crime No.392/2015 for offence punishable under sections 420 and 406 read with 34 of the Indian Penal Code and sections 3 and 4 of the Maharashtra Protection of Investors and Depositors Act ('MPID Act' for short) registered with Chaturshringi police station, Pune and is charge-sheeted.

4. Learned counsel for the applicant submits that of the total 7 accused, accused Nos.2 and 6 are released on regular bail whereas accused Nos.3, 5 and 7 are released on pre-arrest bail. Apart from claiming parity, the submissions are, the provisions of MPID Act are not attracted in the case in hand and support is drawn by relying on the provisions of section 2(c)(vii) of the MPID Act. A further submission is, maximum punishment is 6 to 7 years under the MPID Act and Indian Penal Code. The applicant has already undergone around fifty per cent i.e. three years and four months. It is brought to the notice of this Court that it was never the intention of the applicant to cheat the depositors. Depositors like complainant were aware about the fact that the investment was at their risk. Accordingly, a submission is made for release of the applicant.

5. *Per contra*, learned APP opposed the prayer for bail by the applicant and submits that the applicant has undertaken before this

Court on November 1, 2018 to deposit the amount, for which the matter was adjourned. However, the applicant has not given the schedule of deposit to be made to repay the amount involved in the crime in question. A submission is made that there is a strong evidence against the applicant and the application is liable to be rejected.

6. Considered rival submissions.

7. It is not in dispute that Dheers Kuries Ltd. Which is in the business of chit fund, is excluded out of the provisions of MPID Act. Section 22 of the Chit Fund Act, 1982 contemplates deposits of the chit agreements with Registrar and the said duty is casted on the present applicant in the capacity of foreman to be appointed pursuant to the provisions of section 25 and 2(j) of the Chit Funds Act. Out of the 71 agreements, the applicant has registered only 26 agreements and the rest of the amounts received from the depositors were diverted to other companies in which the applicant appears to be having / holding financial interests.

8. There is sufficient material available on record to infer direct involvement of the applicant as the present applicant was managing the entire system of the company's Dheer Kuries Ltd., being foreman and looking after the affairs of the said company.

9. The record rather depicts the applicant has diverted the funds received from the depositors from the account of the company to

the accounts of his wife and other directors, which decision is solely taken by the applicant.

10. That being so, the contention that there is no material against the applicant is liable to be rejected.

11. As far as the contention as regards parity with other accused is concerned, the role of the applicant is on much higher pedestal than that with the other co-accused, who were either released on regular or pre-arrest bail. The said fact could be noticed from the observations made in the foregoing paras.

12. Apart from above, it appears that this Court had earlier given a chance to the applicant to show his *bona fides* by depositing the amount. However, in spite of repeated adjournments at the behest of the applicant, the applicant failed to demonstrate his *bona fides* as neither the amount is deposited nor the schedule of deposit of amount is tendered.

13. In the aforesaid background, I hardly notice any case which warrants consideration for ordering release of the applicant on bail. As such, the application fails and is rejected.

(NITIN W. SAMBRE, J.)