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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2287 OF 2018

Vijay Murlidhar Dholye .....Applicant

V/s.

The State of Maharashtra .....Respondent

Mr. Ashok M. Mundargi Senior Advocate i/b Mr. Umesh Mankapure advocate for the applicant
Smt. J. S. Lohakare APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 21, 2019.

P.C.

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

2 In Crime No. 125/2018 registered with Devrukh Police Station, Dist. Ratnagiri for offence punishable under Sections 406, 420 of the Indian Penal Code, applicant is seeking pre-arrest bail.

3 The prosecution case is, applicant taking undue advantage of his position as Chartered Accountant and Tax Advisor duped about more than 100 people, by prompting them to invest in a scheme which is popularly known as 'MMM India'. It is the case of prosecution that complainant and similar other investors, pursuant to advice/canvassing by the applicant, invested the amount for which hefty returns were assured/promised by the applicant. The said investors have not received any amount in return. As such, offence in question.

4 The learned senior counsel Shri. Mundargi would urge that the fact that the mode and manner of the operation of the scheme was well within the knowledge of the complainant and similarly placed person, can be inferred from the record. According to him, even if the amount was transferred by the investors to the account of applicant, the amount was invested after the OTP was generated on the mobile numbers of such investors/complainant as such the investment was by consent of investors. He would then urge that present applicant and his family members have also invested the

amount, however, in some cases they got returns, but not in its entirety. As such, sum and substance of the submission is, investment by the complainant and the depositors is out of their voluntary act, after understanding the scheme in question.

5 The learned APP while opposing the claim submits that it is the applicant who has received the amount from the investors in his account and has invested the same. According to her, the investors are uneducated persons and the applicant has taken undue advantage of his position as Chartered Accountant and Tax Advisor. Though the amount of the depositors was received by the applicant and invested in the scheme in question, after receiving returns, benefit was not passed on to the depositors. The nature of offence is economic one which is required to be viewed seriously.

6 Considered rival submissions.

7 There is sufficient material available on record to infer that amount of the depositors have come to the account of the present

applicant as could be noted from the accounts extract, which are brought on record. Applicant and his family members pursuant to the investment made in the scheme in question have received returns which admittedly are not passed on, inspite of the fact that amount was received by the applicant in his account against the investment made.

8 The investment was admittedly advised by the applicant to his clients like the persons who visited him on the issue of tax advice etc. and lured them to deposit the same in his account.

9 There appears to be *prima facie* involvement of the applicant in the crime in question. Apart from above, the offence is economic one which is required to be viewed seriously.

10 Application lacks merits, stands rejected.

[NITIN W. SAMBRE, J.]