IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION N.1115 OF 2020

1. Subhash Chagan Chaudhari
2. Pramilabai Subhash Chaudhari
3. Bali @ Neeta Ganesh Chaudhari ... **Applicants**

Versus

The State of Maharashtra ... **Respondent**

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Mr. N. L. Choudhary, Advocate for applicants.
Mr. Y. G. Gujarathi, APP for respondent – State.

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WITH
CRIMINAL APPLICATION NO.1907 OF 2020

1. Aniruddha Ratilal Marathe
2. Seema Chandrakant Sawle
3. Archana Vasudev Sonar
4. Yogita Manoj Satankar ... **Applicants**

Versus

1. The State of Maharashtra
2. Subhash Chagan Chaudhari
3. Pramila Subhash Chaudhari
4. Bali @ Nita Ganesh Chaudhari ... **Respondents**

……….

Mr. J. D. Jain, Advocate for applicants.
Mr. Y. G. Gujarathi, APP for respondent No.1 – State.
Mr. N. L. Choudhary, Advocate for respondent Nos.2 to 4.

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CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 25-11-2020

PRONOUNCED ON : 08-12-2020

ORDER :

. Criminal Application No.1907 of 2020 filed by applicants – original complainant seeking permission to assist the learned Additional Public Prosecutor is hereby allowed and disposed of.

2. Bail Application No.1115 of 2020 has been filed by the accused persons who have been arrested in connection with Crime No.195 of 2020 registered with Nandurbar City Police Station, Dist. Nandurbar for the offences punishable under Sections 420, 120-B of the Indian Penal Code and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (hereinafter referred to as the 'MPID Act').

3. The application filed by the present applicants under Section 439 of the Code of Criminal Procedure before the learned Additional Sessions Judge / Special Judge under the MPID Act has been rejected.

4. Heard learned Advocate Mr. N. L. Choudhary for applicants and learned APP Mr. Y. G. Gujarathi for respondent – State.

5. It has been vehemently submitted on behalf of the applicants that the informant had come with the case that he was knowing the accused persons since 8 to 10 years prior to the FIR. He was also knowing that since last about 6 to 7 years, they were conducting business of chit fund *(Bhishi).* An impression

was given by the accused persons that they are carrying out the said business as per the Government Procedure and Rules. On the representation made by accused persons, he states that he has parted with amount of Rs.15,00,000/- for investing in the chit fund of the accused persons. He also states that certain other persons from the same city have invested their amount in the chit fund which, in all, goes to the tune of Rs.37,00,000/-. The informant has alleged that though such huge amount was given by them to the accused persons, they had not issued any receipt for the same. The confidence of the informant and others was won by the accused persons by saying that whether they do not have any faith in them. The accused had promised that if they invest the amount in their scheme, they would get double amount in short period. The informant and others were worried for getting fruits of their investment, but according to them, the accused persons fled away from the city with amount and it is their say that the accused persons have invested the amount that was collected by them from informant and others in acquiring property.

6. The learned Advocate for the applicants submitted that the investigation is over and charge sheet has been filed. Cash amount is not recovered from the applicants, however, as per the provisions of MPID Act, immovable properties as well as certain movable properties belonging to the accused have been seized. When the amount is secured, the further physical custody of the applicants is not required. The applicants were arrested on

06-07-2020 and since then, after the completion of Police Custody Remand (PCR), they are in Magisterial custody. The informant and other witnesses have not stated as to from where they had collected such huge amount. If we consider the occupation of those persons, then it is hard to believe that they would have collected such huge amount at one stroke. Further, they have not produced any documentary evidence to support their contention that they had extended the said amount to the accused persons. When the payments were given to the accused either in installment or at once is also not specifically stated. The evidence that has been collected and placed before the Court through charge-sheet is not sufficient to convey that those persons were cheated by the accused persons by hatching up a criminal conspiracy. The provisions of MPID Act are also not attracted. In the alternative, it is also submitted by the learned Advocate for the applicants that as the immovable property, of which the value is more than Rs.37,00,000/-, has been seized by police, the applicants let be released on bail.

7. Per contra, learned APP strongly opposed the application on the ground that the statements of witnesses would definitely show that they had extended huge amount only on the representation made by the accused persons that they would get double the amount of investment. Hard earned amount of middle income group has been so collected by the accused persons by cheating those persons. There is *prima facie* evidence collected, which would show that

the accused persons were running the chit fund *(Bhishi)*. They had not taken necessary permission from the Security Exchange Board of India, other non banking offices and Reserve Bank of India. The witnesses, who are almost illiterate or might be knowing only Marathi, were shown the documents in English and it was told that necessary permissions have been taken. Those documents have been used to create confidence in them. The accused persons were absconding almost since November, 2019. Possibility of they getting absconding in future cannot be ruled out.

8. It is to be noted that the charge-sheet is filed and, therefore, the further physical custody of the applicants is not required for the purpose of investigation. Under such circumstance, we are required to say what evidence has been collected and whether there is possibility of availability of the accused persons for the purpose of trial in future. In respect of the second point it can be seen from the charge-sheet containing statements of witnesses that the accused persons were not in their house since November, 2019. Therefore, there is substance in the say of the informant as well as prosecution that the accused persons went absconding. If this past act is considered, then the possibility of getting the accused persons absconding in future cannot be ruled out. Now, as regards parting of huge amount by the informant and other witnesses with the accused persons is concerned, the informant has stated that he had taken loan from Bajaj Finance Company to the tune of Rs.8,50,000/- and he had withdrawn

the same in installments. He says that he had given that amount to the accused persons. He also says that he had taken amount of Rs.6,50,000/- on credit from his friends. Therefore, there appears to be the disclosure of source of amount collected by the informant, which he says that he had given to the accused persons. In his FIR itself, he has stated that accused persons never gave receipt for the receipt of the amount under the pretext that he should have faith in them. Statements of other witnesses, who have given such amount to the accused, would also show that they have given account of the source from where they had collected the amount and given it to the accused persons. Further piece of evidence that has been collected is 23 receipts of account No.242 on the account of accused No.1 maintained with Kakasaheb Hiralal Maganlal Choudhary Nagari Sahakari Patsanstha, Nandurbar and they are to the tune of Rs.22,52,500/-. Other passbooks of bank accounts of the other witnesses have also been seized. Transaction details have been taken. Documentary evidence in respect of acquisition of immovable properties at Navi Mumbai, Wagheda Shiwar, Dist. Nandurbar, Dudhale Shiwar, Dist. Nandurbar etc., has been recovered. The amount which is stated to have been collected from the informant and witnesses is to the tune of Rs.37,00,000/-. Therefore, taking into consideration the statements of witnesses, documentary evidence, there appears to be *prima facie* case against the applicants. In case of economic offence, the Courts should be slow in granting bail and when in this case, the evidence is also collected to show that the accused persons were not found since November, 2019 till the date of their arrest, the applicants do not deserve to be released on bail. Hence, the following order :-

ORDER

. Bail Application No.1115 of 2020 stands rejected.

[SMT. VIBHA KANKANWADI, J.]

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