IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 845 OF 2019

Kamal Dnyaneshwer Shelke ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Sandeep R. Karnik, Advocate for the Applicant.
Mr. H. J. Dedhia, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 17th FEBRUARY, 2020.

PC :

1. The applicant is seeking bail in connection with C.R. No. 1 of 2017, registered with Dighi Police Station, Pune for offences punishable under Sections 420, 406 r/w. 34 of Indian Penal Code, 1860 ('IPC' for short) and Sections 3 and 4 of Maharashtra Protection of Interest of Depositers (In Financial Establishments) Act, 1999 ('MPID' for short). The First Information Report ('F.I.R.' for short) was lodged on 03rd January, 2017. The applicant was arrested on 20th September, 2017.

2. The case of prosecution is that, in 2013, the complainant approached Rani Vaikunth Kumbhar and Kamal Dyaneshwer Shelke. They were President and Secretary of Sanskar Mahila Bachatgat established by Sanskar Group, Vadmukhwadi, Aalandi, Pune. The

complainant was informed that, she can invest an amount of Rs. 3,000/- p.m. for a period of three years and she would earn returns to the extent of 24% alongwith interest. The complainant formed a group of 132 women for investing an amount for a period of three years. The names of the investors are mentioned in the FIR. It is further alleged that, the complainant and the other members invested an amount of Rs. 29,10,566/- in Sanskar Group. After maturity of the investment, investors demanded returns. The complainant was given cheque dated 9th May, 2016, drawn on Janata Sahakari Bank, Chandan Nagar, Pune, bearing No. 041541 for an amount of Rs. 5,00,000/-. The complainant deposited the said cheque with her bank, which was dishonoured. She approached Vaikunth Kumbhar in the office of Sanskar Group and demanded money, cheque dated 30th July, 2016 drawn on the same bank, bearing No. 056354 for an amount of Rs. 29,10,528/-was given to complainant. The complainant was informed by applicant that, she deposited the cheque and she was called to collect cash in the office. The complainant went to the office of Sanskar Group and demanded money. She was informed that, due to technical reason money cannot be given to her. She was told to come on 2nd August, 2016 for collecting amount. The complainant again went to the office and met Vaikunth Kumbhar, Rani Kumbhar, Surekha Shivale, Abhishek Ghare, Raju Buchade and demanded money. She was informed that, money would be returned after selling the properties. Inspite of repeated requests amount was not paid to the complainant. The complainant learnt that, accused acted inconnivance with each other. They induced several investors with false promises of extra returns and for their personal benefit purchased properties at various places and cheated investors.

3. The applicant preferred an application for bail, before Sessions Court, which was rejected on 30th November, 2017. The applicant, thereafter, preferred another application for bail before the Special Court for MPID and the said application was rejected on 12th April, 2018.

4. Learned Advocate for the applicant submitted that, the applicant is a lady. She is in custody for two and half years. There is no personal gain to the applicant. There are no criminal antecedents against the applicant. Further custody of the applicant is not necessary. There is no specific allegations against the applicant except that, on one occasion, the applicant called the complainant and told her not to deposit the cheque issued by Sanskar Group. No incriminating article is recovered except car. Applicant was working on directions of co-accused. She has not collected anyamount. She

has not issued any cheque. No specific role is attributed to the applicant. The investigation was transferred to EOW, Pune. It is submitted that, pending the present FIR, private complainants were filed by some aggrieved persons and directions were given under Section 156(3) of Cr.PC. The said orders were challenged before this Court. This Court had stayed the operation of order, directing investigation under Section 156(3) of Cr.PC vide Interim Order dated 25th June, 2018.

5. Learned counsel for the applicant relied upon the Order passed by this Court granting bail in Bail Application No. 873 of 2019. It is submitted that, bail was granted to the applicant in the said application, considering that, she is lady and she was in custody for long time. It is submitted that, this Court while allowing the said application had considered bail granted to other accused by Hon'ble Supreme Court on the ground that accused were in custody for substantial period.

6. Learned APP submitted that, huge amount is invested in this case. Several investors were deceived. The prosecution has filed affidavit opposing bail. It is submitted that, statement of 450 witnesses were recorded. The amount of Rs.19,84,01,198/- is involved in this case. Offences under Sections 409, 120(B), 467, 468,

201, r/w. 34 of IPC and 3 and 4 of MPID Act were added subsequently. There are 11 accused in this case. The investigation was conducted by Economic Offence Wing, Pimpri Chinchwad. The applicant was Secretary of Sanskar Mahila Bachatgat and Director of Sanskar Urban Cooperative Credit Society. She was responsible for the working of Sanskar Mahila Bachatgat alongwith the co-accused. She deputed 70 women coordinators. The investors were induced to invest amount. The applicant was operating the bank account. Huge amount was credited to accounts of applicant. The applicant has actively participated in the transactions. At the time of registration of FIR, it was disclosed that, amount of Rs. 29,10,566/- was misappropriated. However, after investigation, it was revealed that, more than 19 Crores were involved in this transaction. Hence, the application for bail may be rejected.

7. I have perused the FIR and the other documents which forms part of charge-sheet. The applicant is in custody from 20th September, 2017. Thus, she has undergone custody for period of about two and half years. Applicant is a lady. The prosecution's case is that, the complainant and others had invested an amount with Sanskar Mahila Bachatgat. The President of Sanskar Group is Smt. Rani Vaikunth Kumbhar. The applicant was Secretary of Sanskar Group. It was alleged that, Chairman and the Secretary had

represented that, the investors would earn attractive returns on depositing money. The complainant had approached Sanskar Group in 2013. No specific allegation is made against the applicant. The applicant was not involved in formation of self-help group or any other company. There is no likelihood that, the applicant would tamper with the evidence. The affidavit-in-reply filed by the prosecution indicates that, there are about 450 witnesses, whose statements were recorded. The investigation was transferred to EOW, Pune on 20th March, 2018. During the investigation, it was transpired that, 11 accused are involved in the crime. Sections 409, 467, 468, 120(B), 201 r/w. 34 of IPC and Sections 3 and 4 of MPID Act were added subsequently. According to the prosecution, the applicant was operating bank account of Sanskar Mahila Bachagat at Janta Sahakari Bank, Chandan Nagar Branch, Pune. The affidavit filed by prosecution do not disclose that applicant has purchased any property from misappropriated amount. Maruti Car purchased by the applicant, has been seized by the police. Immovable property was allegedly found in the name of co-accused.

8. Hence, I pass the following Order:

<u>O R D E R</u>

i) Bail Application No. 845 of 2019, is allowed;

ii) The applicant is directed to be released on bail in connection with C. R. No. 1 of 2017, registered with Dighi Police Station, Pune investigated by EOW, Pune which is subject matter of MPID, Special Court, Pune in Case No. 16 of 2017, on furnishing P.R. bond in the sum of Rs. 1,00,000/- (Rupees One Lakh Only) with one or more sureties in the like amount;

iii) The applicant shall report EOW, Pune once in a month on every first Saturday between 10.00 am. to 12.00 pm. till further order.

iv) The applicant shall not indulge in similar offence.

v) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)