IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1995 OF 2019

Vishnu Ramchandra Bhagwat	Applicant
versus	
The Sate of Maharashtra	Respondent

AND
INTERIM APPLICATION NO.1 OF 2019

Ganesh Nivrutti Gadage	Applicant
versus	
The State of Maharashtra	Respondent

AND
INTERIM APPLICATION NO.2 OF 2019

Rameshwar Ratan Mhaske	Applicant
versus	
The State of Maharashtra	Respondent

WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1996 OF 2019

Santosh Sudam Korde	Applicant
versus	
The State of Maharashtra	Respondent

AND
INTERIM APPLICATION NO.1 OF 2019

Ganesh Nivrutti Gadage	Applicant
versus	
The State of Maharashtra	Respondent

AND
INTERIM APPLICATION NO.2 OF 2019

Rameshwar Ratan Mhaske	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Aabad Ponda, Senior Advocate, with Abhay Dhadiwal, withSantosh Avhad i/by Jayakar and Partners for applicant in ABA No.1995 of 2019.

Mr.Ashwin Shete i/by Jayakar and Partners in ABA No.1996 of 2019.

Dr.Uday P. Warunjikar for intervenor in IA No.1/2019 in both applications.

Mr.Vinod N . Tayade for intervenor in IA No.2/2019 in both applications.

Smt.A.A.Takalkar, APP, for State.

Mr.Netaji Gandhare, API and IO, EOW, Pune Rural, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 18th February 2020

PC :

1. The applicant in both these applications are apprehending arrest in connection with CR No.201 of 2019 registered at Aale Phata Police Station, Pune Gramin under Sections 406, 409 and 420 of Indian Penal Code and under Sections 3 and 4 of Maharashtra Protection of Interest of Depositors (In Financial Establishment) Act, 1999.

2. The FIR is lodged by Balasaheb Mhaske on 11th June 2019. He stated that Santosh Korade is known to him. He was Director of Mauli Multistate Credit Co-operative Society Limited. The informant received information about above concern. The informant visited the office of Credit Society. He was introduced to applicant by Santosh Korade (Applican in ABA No.1996 of 2019). It is alleged that the

applicant Vishnu Bhagwat is the main Director of Mauli Multistate Credit Co-operative Society Limited. The complainant and his family members invested various amounts on the assurance that they will get double the principal amount. The wife and son of the complainant had also invested the amounts in the scheme. The relative of the complainant Mr.Rameshwar had suffered loss to the tune of Rs.2,38,37,000/-. The applicant Vishnu Bhagwat also started company named Sankalp Siddhi India in the same premises. The name of that company was then changed to Sankalp Siddhi Products India Private Limited. The complainant also invested in said company. Initially he received returns. The informant met both the applicants due to default in receipt of returns. They assured that informant would get his money. Subsequently both avoided informant. The main office of Mauli Multistate Credit Co-operative Society Limited is at Nashik. It was learnt that various persons were cheated and FIR is registered against applicants. The complainant and his familyl had suffered losses to the tune of Rs.55 lakhs.

3. Both the applicants preferred application for anticipatory bail before the Sessions Court which was rejected by order dated 31st August 2019.

4. Learned counsel for applicant in ABA No.1995 of 2019 submitted that the offences, as alleged, are not made out against the applicant. False complaint is lodged by the complainant. The investment made by the complainant was due for maturity and before the date of maturity, the FIR was lodged. There was no intention of causing loss or deceiving the complainant. The complainant had received returns. It is only on account of freezing

of accounts by the Police that the credit society was in financial constraints. Prior to registration of the present FIR, another FIR was registered with Mumbai Naka Police Station vide CR No.209 of 2019 with similar allegations. The applicant was granted anticipatory bail by the Sessions Court in connection with the said FIR vide order dated 15th June 2019. It is submitted that while allowing the said application, the Sessions Court had observed that custodial interrogation of the applicant is not necessary. The notice was issued to the applicant u/s 91 of Cr.P.C and without registration of crime, Police had ventured to cause freezing of accounts to Sankalp Siddhi Product India Pvt.Ltd. The business of applicant is spread all over Maharashtra. It is submitted that the allegations in the said FIR and the complaint are identical. Two FIRs could not have been registered in respect of similar transactions. The applicant is willing to co-operate with the investigation. It is further submitted that as per plan, quarterly payments were regularly credited to the savings account of the complainant. The complainant had invested amount. There is no question of any inducement to him. There is no element of breach of trust or cheating in this case. It is submitted that till freezing of the account, the complainant had received the payment. The ingredients to constitute offence under MPID Act are not existing. No offence of whatsoever nature is made out against the applicant. The properties were attached. The Sessions Court had rejected the application erroneously. As per the schemes availed by the complainant, payments were made from time to time. As far as balance payments are concerned, either the scheme availed of by the complainant was not matured, or no request in that regard was made or no procedure was followed by the complainant to close the account of the scheme prematurely. The entire case is based on documents. The applicant is willing to co-operate with the investigation. During the course of investigation in CR No.209 of 2019, requisite documents were provided to the investigating agency.

5. Learned counsel for applicant in ABA No.1996 of 2019 reiterated the submissions advanced by learned counsel for applicant in ABA No.1995 of 2019. It is submitted that there is no evidence constituting any of the offence by the applicant. He is willing to co-operate with the investigation. No purpose will be served by subjecting the applicant to the custody. The application was rejected by Sessions Court without appreciating the need of custody. The only role attributed to the applicant is that he had introduced the applicant in ABA No.1995 of 2019 to the complainant. The custodial interrogation of the applicant is not warranted.

6. Learned APP submitted that the offence is of serious nature. The complainant as well as several other persons were deceived. The accused had misappropriated the amounts deposited by the complainant and his relatives. The accused had acted in connivance with each other. Various depositors, most of them were villagers, were cheated. Custodial interrogation of applicants is necessary. Learned APP relied upon the affidavit-in-reply filed by the investigating officer, opposing application for anticipatory bail. It is submitted that the applicants have misrepresented to the first informant and various other persons that if they invest money in Sankalp Siddhi Product India Private Limited, they would get multi fold returns on the invested amount. The accused accepted huge amounts from the investors, which consisted of complainant and 19 others. The accused have duped the complainant and others to the tune of Rs.47,06,94,880/-. The applicants were hand-in-glove with

each other. It is further submitted that to know the modus operandi of the accused and to find out the transactions and the misappropriated amount, custodial interrogation of the applicants is necessary. It is submitted that the applicant in ABA No.1995 of 2019 is a habitual offender. Similar type of offences are registered against him vide CR No.94/2011, 97/2011, 98/2011, 99/2011, 209/2019 and 156/2019. It is submitted that the accused formed three societies namely Ujjwalam Agro Multistate Co-operative Society Limited, Shree Mauli Multistate Co-operative Society Limited and Sankalp Siddhi Product India Private Limited for inducing investors. Both the applicants have induced the investors. The FIR and further investigation attributes role to both the applicants. There was no intention to make payments to them. False excuses of freezing of account is made by the applicants. There was minimal balance in the accounts of accused. Hence, the contention that there was financial constraints on account of freezing of accounts, is devoid of merits.

7. Learned counsel for intervenors adopted the submissions of learned APP. It is submitted by them that the applicants had no intentions to pay the returns to the investors. The loss is caused to several investors. Custodial interrogation of the applicants is necessary. The applicants cannot claim parity by relying on the order passed by Sessions Court granting bail in CR No.209 of 2019 registered with Mumbai Naka Police Station. Huge loss is caused to investors.

8. I have perused the FIR and the documents on record. The FIR was lodged by Balasaheb Mhaske alleging that he along with his family had invested huge amount. His relatives had also invested the amount and although promises were made, they did not receive the

returns. From the investigation conducted by investigating agency and from the affidavit-in-reply filed by the prosecution, it is apparent that the applicant in ABA No.1995 of 2019 was the main director and the applicant in ABA No.1996 of 2019 was also a director of Shree Mauli Multistate Credit Co-operative Society Limited. It is the case of prosecution that the accused had conspired to defraud the first informant and others. The accused had founded venture namely Sankalp Siddhi Product India Private Limited. It is alleged that the applicants had misrepresented to the investors that they would fetch good returns in case of investment in Sankalp Siddhi Product India Private Limited. The investigation revealed that loss is caused to the tune of Rs.47,06,94,880/-. During investigation it was transpired that the accused were hand-in-glove with each other. Although at the time of lodging of the complaint the misappropriated amount is disclosed to be Rs.2,93,81,883/-, the investigation is in progress and the amount has mounted to Rs.47,06,94,880/- approximately. As far as applicant Vishnu Bhagwat is concerned, there are antecedents against him. Offences were registered with Mukundwadi Police Station, at Aurangabad, at Mumbai Naka Police Station and at Jaikheda Police Station. The investigation conducted in CR No.209 of 2019 and CR No.201 of 2019 is independent. According to the prosecution, the misappropriated amount has been invested in purchasing land, development of land and purchasing other properties. In the affidavit filed by the prosecution it is stated that the accused floated various schemes, like, recurring deposit scheme, pension scheme, monthly deposit scheme, dhansuraksha scheme to lure to the investors in Shree Mauli Multistate Credit Co-operative Society Limited. Three firms were formed by the applicants namely Ujjwalam Agro Multistate Co-operative Society

Limited, Shree Mauli Multistate Co-operative Society Limited and Sankalp Siddhi Product India Private Limited. Various branches were established out of which one branch was at Aale Phata, Taluka Junnar, Pune Rural. Investment certificates were issued to the investors and repayment was not made. It is also alleged that the applicant and other accused has accepted investment of more than Rs.1,000/- but they never disbursed any amount to the members. The affidavit also indicates that the accounts of the accused were freezed, however, during investigation it was transpired that there was minimal balance in the account. The accused had appointed agents on commission basis for marketing the schemes. Luxury cars were distributed to the agents for promotion of schemes. The magnitude of the offence is enormous. FIR gives overt act to both the applicants. Investigation revealed complicity of both applicants. Both misrepresented investors. In the light of material collected during the investigation and complicity of the applicants in crime, specific role has been attributed to the applicants. Considering these aspects, no case for grant of anticipatory bail is made out.

9. Accordingly I pass following order :

ORDER

(i) Criminal Anticipatory Bail Application No.1995 of 2019 is rejected;

(ii) Criminal Anticipatory Bail Application No.1996 of 2019 is rejected;

(iii) Respective Interim Application Nos.1 and 2 of 2019 in both these applications stand disposed of.

10. At this stage learned counsel for applicants in both the applications submit that they intend to challenge this order before

the higher Court and interim protection granted by this Court vide order dated 30th September 2019 may be extended by a period of four weeks. It is stated that the applicant in ABA No.1995 of 2019 is already in custody in another case. The applicant in ABA No.1996 of 2019, however, is not arrested in any other case. In view of the request, interim protection granted to applicant in ABA No.1996 of 2019 is extended by three weeks from today.

(PRAKASH D. NAIK, J.)

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