

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3055 OF 2019

Markas Yohan Thorat

Applicant

versus

The State of Maharashtra

Respondent

Mr.I.S.Thakur i/by M/s.Global Juris Consults, Advocate, for applicant.

Mr.S.S.Pednekar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 3rd February 2020

PC :

1. The applicant is seeking bail in connection with CR No.11 of 2017 registered with Bhoiwada Police Station, Mumbai for offences punishable under Sections 409, 420, 120-B of Indian Penal Code and Sections 3 and 4 of Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act (hereinafter referred to as MPID Act for short) r/w Sections 3,4 and 5 of Price, Chits and Money Circulation Scheme (Banning) Act, 1978. The FIR was registered on 16th January 2017. The applicant was arrested on 5th February 2018.

2. The prosecution case is that informant has alleged that the accused Templerose Real Estate Private Limited, its Directors, applicant and others had accepted deposits from investors by floating bye-back, guaranteed double income 36 months, income growth plan etc schemes. They induced investors by making promise of more profits on the investments and after maturity failed to return the

assured benefits. The informant was duped for an amount of Rs.37,38,775/- and for crores of rupees to other investors. The statements of witnesses were recorded. On completing investigation charge sheet was filed.

3. The learned advocate for the applicant submit that the applicant is in custody from 5th February 2018. The investigation is completed and the charge sheet is filed. The applicant is in custody for more than two years. The trial has not commenced. The prosecution has proposed to examine about 50 witnesses. It is not clear as to when the trial would commence and it would be concluded. The applicant cannot be subjected to custody for indefinite period. The previous application of the applicant was rejected by this Court on 26th February 2019. However, thereafter there is no progress in trial.

4. The applicant is in custody in CR No.275 of 2017 for a period of ore than two years. Notification has been issued by the Government on 2-11-2017 attaching movable and immovable properties of the company. The case was adjourned from time to time before the Special Court without any progress in the proceedings. The directors of the company were impleaded as accused in CR No.8 of 2017 registered with EOW, Unit-9 and was granted bail by the Sessions Court by order dated 22nd November 2018. Learned counsel for the applicant relied upon the decision of the Supreme Court in the case of Sanjay Chandra Vs. CBI (AIR-2012-SC-830) to contend that the accused need not be kept in custody for indefinite period. Learned counsel also relied upon the order passed by this Court in Bail Application No.1978 of 2017 granting bail to the

accused and order dated 16th October 2019 passed by this Court in Bail Application No.2658 of 2019 to contend that in similar cases bail was granted to the accused.

5. Learned APP submitted that the previous application of the applicant was rejected by this Court on merits by assigning reasons for refusal of bail. No new ground is made out by the applicant to consider the grant of bail. It is submitted that the Court may at the most expedite the trial.

6. This is the second application for bail before this Court. The previous application was rejected on 26th February 2019. While rejecting the said application it was observed that during investigation it was revealed that the default is approximately to the tune of Rs.320 crores and several investors were deceived. The investigation revealed that the applicant is deeply involved in the crime. The applicant has received Rs.2,16,64,472/-. The applicant had purchased in his name and in the name of his relatives properties from the funds received from the investors. Thus, by assigning the detail reasons the application was rejected by this Court. However, considering the fact that the applicant is in custody from the date of his arrest, the directions can be given to the Trial Court to expedite the trial with liberty to the applicant to prefer the fresh application for bail in the event the trial does not commence within stipulated time.

7. Hence, I pass the following order :

ORDER

- (i) Criminal Bail Application No.3055 of 2019 is rejected;
- (ii) Trial Court is requested to conclude the trial within a period of six months from the date of receipt of the order;
- (iii) The applicant will be at liberty to prefer fresh application for bail in the event the trial is not concluded within period of six months.

(PRAKASH D. NAIK, J.)

MST