IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 873 OF 2019

WITH

INTERIM APPLICATION NO. 1 OF 2020

IN

CRIMINAL BAIL APPLICATION NO. 873 OF 2019

Leena Mahesh Motewar ...Applicant

V/s

The State of Maharashtra ...Respondent

WITH

CRIMINAL BAIL APPLICATION NO. 3110 OF 2018
WITH
INTERIM APPLICATION NO. 1 OF 2020
IN
CRIMINAL BAIL APPLICATION NO. 3110 OF 2018

Abhishek Mahesh Motewar ...Applicant

V/s

The State of Maharashtra ...Respondent

Mr. A. P. Mundargi, Sr. Adv. i/b. Raviraj R. Paramane for the applicant in BA.873/2019.
Mr. Soumen Banerjee a/w. Mayank Sharma i/b. Waquar Ahmad for the applicant in BA.3110/2018.
Smt. A. A. Takalkar, APP for State/respondent.
Mr. Anant Sakunde for the Intervenor in both BA's.
IO-PI, Mr. Dhumal V. S., EOW, CID, Pune.

CORAM : PRAKASH D. NAIK, J.
DATE : 24th JANUARY, 2020

PC :

1. The Applicants in both these applications are seeking bail in connection with C.R. No. 243 of 2016, registered with Deccan Police Station, Pune for the offences punishable under Sections 120(B), 406, 409, 420 r/w. 34 of Indian Penal Code, 1860 ('IPC' for short) and Section 3 of Maharashtra Protection of Interest of Depositers (In Financial Establishments) Act, 1999 ('MPID' for short). The applicant in BA No. 873 of 2019 was arrested on transfer in this case on 25.06.2018. She was in custody in CR. No. 384/2014 registered with Chaturshrungi Police Station from 10.08.2016. Whereas, the applicant in BA No. 3110 of 2018 was arrested on 12.04.2018.

2. The prosecution case is that, the first informant had invested an amount of Rs. 1 lakh in the name of his wife on 30.07.2015 for period of one year, which Samruddha Jeevan Multi State Multi Purpose Co-operative Society Ltd., at Shivaji Nagar, Pune. He also invested further amount in the schemes of the said society. He invested about 35 Lakhs on the date of maturity. He did not receive amount. Promises were made that investor would earn better returns then

bank. The Directors of company misappropriated the amount. Accused Mahesh Motewar, Ex-Chairman of the society was arrested. He also noted that, other investors were also deceived. Hence, he lodged First Information Report ('FIR' for short). The society was offering better returns to investor in their schemes. The society did not return the deposits on its maturity and various complaints were filed against the society. Complaints were filed at various places including different States. Accused were arrested in those cases, offences were also registered at Odisha. The investigation further entrusted to Economic Offence Wing ('EOW' for short), Pune. During the course of investigation, statement of witnesses were recorded. It is alleged that, Three thousand six hundred crores were misappropriated in all the cases. The accused Mahesh Motewar and the applicant had formed a Gurukrupa Private Dairy Ltd., in 2002. Which was changed to Samruddh Jeevan Foods India Ltd., in 2002. The said company launched various livestock, sale, purchase and rearing schemes allegedly collected investments by establishing more than 300 branch offices across India. Enquiry was also conducted by SEBI. Samruddha Jeevan Group has several companies, which were utilized the amount collected from investor. The applicant was Director of some of the company.

3. The applicant in BA No. 873/2019 had preferred Bail Application before the Sessions Court, which was rejected by order dated 4.02.2019. The applicant in Bail Application No. 3110 of 2018 had also preferred an application for bail before the Sessions Court, which was rejected by order dated 3.11.2018.

4. Learned counsel for the applicant submitted that, the applicant is in custody from the date of arrest. Further detention of the applicant is not necessary. The applicant in BA. No. 873 of 2019 is the wife of Chairman Mahesh Motewar. It is submitted that, she was also arrested in C.R. No. 384 of 2014 registered with Chatushrungi Police Station. The applicant was granted bail by this Court vide order dated 19.06.2018. Thereafter, the applicant was arrested in this case on 25.06.2018. She was in custody in another case. She was not arrested for period of about 2 years. After grant of bail in C.R. No. 384 of 2014, she was arrested in the present case. The Charge-sheet is filed on 19.06.2018. It is further submitted that, the Hon'ble Apex

Court had granted bail to Mahesh Motewar in respect to the offence registered at Odisha, which is subject matter of R.C./34/S/2014 vide order dated 26.10.2018. He was also granted bail by Supreme Court in the case registered at Odisha vide order dated 23.04.2019. The applicant was granted bail by the Hon’ble Supreme Court vide order dated 31.07.2019 in connection with the case registered at Odisha. This Court has granted bail to Mahesh Motewar in C.R. No. 384 of 2014 by order dated 23.08.2019. He was also granted bail in C.R. No. 186/2017 registered with Vishram Baug Police Station by order dated 23.08.2019. It is submitted that the Supreme Court vide order dated 9.05.2014 passed in WP(Civil) No. 401/2013 and other petitions directed transfer of cases registered in State of West-Bengal and Odisha to CBI. It is submitted that, CBI was investigating two sets of cases. The charge-sheet filed in RC/34/S/2014 and 08/S/2014. The Charge-sheet indicate that the investigation in relation to transaction, which are subject matter of this complaint were also taken into consideration. The Apex Court granted bail to the accused, in the case registered in State of Odisha, on the ground that the accused were in custody for substantial period of time. It is submitted that, although the present FIR is separate, considering the fact that the applicant and other accused granted bail in the earlier case by the Apex Court, on parity the applicant be granted bail. As far as applicant in Bail Application No. 3110/2018, it is contended that he is not connected with any company. He was never director of any company. He did not misappropriate any properties. He was power of attorney holder of his mother. He sold property in name of his mother for 12 lakhs. The amount was used for company. The said applicant is a student of management studies.

5. Learned APP submitted that the offence is of serious nature. Crores of rupees were collected by the accused from various persons. The investors were induced to part with the amount with assurance of double returns. However, the promises turned out to be false. The applicants are not entitled for bail on the ground of parity. The prosecution has filed an affidavit opposing bail. It is submitted that the applicant in B.A. No. 873/2019 have played a vital role in the offences. Several cases were registered against her. She has immovable property at different places in State of Maharashtra, which are seized in accordance with provisions of MPID Act. Details are

mentioned in the affidavit. Bank account of the said applicant has been seized. It is submitted that similar offence have been committed by the said applicant in other State. She is beneficiary of huge misappropriated amount. The cash amount collected from the depositery was handed over to this applicant. Statement of Branch Manager and others recorded under Section 164 of Cr.PC revealed that, collections were handed over to applicant. It is an economic offence. It is of serious nature. Total amount was to the tune of Three Thousand Six Hundred Crores all over India. The applicant Leena Motewar and Mahesh Motewar formed Gurukrupa Dairy Pvt. Ltd.,in 2002. Name was changed to Samruddha Jeevan Food India Ltd., in 2006. The company launched various livestock sale, purchase and rearing schemes and collected investment by establishing branches. SEBI initiated enquiry. The accused registered Samruddha Multistate Multipurpose Cooperative Society. Agreement executed with SJFL to transfer business to society. Samruddha Jeevan had 46 various companies. Leena Motewar was Director of Samruddha Jeevan Foods India Ltd., Golden Crust Agro Corporation India Pvt. Ltd.,etc.,

6. The applicant in Bail Application No. 3110 of 2018, also played a vital role. He is son of Mahesh Motewar and Vaishali Motewar. Central Registrar, Ministry of Agriculture appointed Liquidator to liquidate assets of Samruddh Jeevan Multistate, Multipurpose Co-operative society Ltd. The statement of Liquidator is recorded. It is submitted that he has Power of Attorney from Vaishali Motewar. Sold property's money was credited to his account. The properties sold by him were attached. The report of the Chartered Accountant indicate that an amount of Rs. 1 Crore was credited into the account of the applicant. Learned counsel for the Intervenor oppose the applications for bail on several ground. It is submitted that huge amount was misappropriated by the accused. The accused are habitual offenders. Small investors were cheated. Various companies were floated. Although, the investigation was conducted, Forensic Audit was not conducted. Money trail not yet identified.

7. Having heard both sides, I have also perused the documents on record. The applicants are in custody from date of arrest. Investigation is completed and charge-sheet is filed. The affidavit filed by the prosecution indicate that

the applicant in BA. No. 873 of 2019 had several immovable properties at different places in State of Maharashtra. The details are mentioned in affidavit. All these properties have been seized in accordance with Section 4 of the MPID Act. The bank account of the applicant is seized. It is pertinent to note that the applicant in BA No. 873 of 2019 was granted bail by this Court in C.R. No. 384 of 2014. The said application is allowed vide order dated 19.06.2018. While granting bail to the applicant in the said case, Court has observed that, the applicant is in custody for two years. The accused Mahesh Motewar had preferred an application for bail in connection with FIR registered in the State of Odisha before the Apex Court. The charge-sheet in the said case was filed by CBI under Section 420, 409, 120(B) read with Section 4, 5, 6 of Prize Chits and Money Circulation Schemes (Banning) Act, 1978. He was granted bail by order dated 26.10.2018. It was observed that first charge-sheet was filed in which the said accused was alleged to be mastermind behind a big fraud which involved a company called Samruddha Jeevan Foods India Ltd. It was observed that the petitioner (Mahesh Motewar) has been arrested on 16.12.2015 and in Jail. The charge-sheet is filed on 23.08.2016. However, charges are not framed. Considering that accused is incarcerated for a period of almost three years, he is enlarged on bail to the satisfaction of trial Court. The accused Mahesh Motewar than preferred application for bail in another charge-sheet before High Court at Orissa which was rejected on 29.01.2019. The said charge-sheet was filed under provisions of Penal Code and other Act, with regard to role of Mahesh Motewar in group company called Samruddh Jeevan Multistate Multipurpose Cooperative Soceity Ltd. The Apex Court granted bail by order dated 23.04.2019 by observing that the High Court ought to have considered that, the two charge-sheet that have been filed are with regard to group companies where the said accused is alleged to be mastermind in which common evidence will be given. The applicant Leena Motewar preferred Special Leave Petition before Apex Court challenging order dated 25.02.2019 passed by High Court of Odisha at Cuttack. The Apex Court granted bail vide order dated 31.07.2019.

8. This Court granted bail to Mahesh Motewar in C.R. No. 384 of 2014. It is observed that several complaints were filed of similar nature. Reference was made to the observations made in order passed by the Apex Court on

9.05.2014 in Writ Petition No. 401/2013 and companion petitions in Paragraph 34 and 35 of the said order it was mentioned as follows.

> *"34. In the circumstances, we are inclined to allow all these petitions and direct transfer of the following cases registered in different police stations in the State of West Bengal and Odisha from the State Police Agency to the Central Bureau of Investigation (CBI).*
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> *34.B. State of Odisha: All cases registered against 44 companies mentioned in our order dated 26th March, 2014 passed in Writ Petition (c) No. 413 of 2013. The CBI is also permitted to conduct further investigations into all such cases in which charge-sheet have already been filed.*
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> *35. We reserve liberty for the Joint Director CBI, Incharge of the States of West-Bengal and Odisha to seek further directions in relation to transfer of any other case or cases that may require to be transferred for investigation to CBI for a full and effective investigation into the scam".*

9. In pursuant to the aforesaid directions by the Supreme Court, CBI took over the investigation and filed charge-sheet pertaining to RC/34/S/14/CBH/ KOL, accused no. 2 in said charge-sheet was mentioned as Samruddha Jeevan Food India Pvt. Ltd. The said company was incorporated as Gurukrupa Dairy Pvt. Ltd., Mahesh Motewar was Chairman/

Managing Director. The said charge-sheet mentioned that the above company claimed that it had kept maintained and undertaken the trading of livestock in the agricultural land situated at 16 places spreading across different State of Maharashtra, Odisha, Rajasthan, Punjab, Bihar and Karnataka. Paragraph 16.11 mentions that Samruddh Jeevan Foods India Ltd., and its Sister concerns Viz. Prosperity Agro India, Samruddha Jeevan Multistate Multipurpose Cooperative Society had set up 300 branches all over India. Investigation revealed that the applicant Leena Motewar and her husband-Mahesh Motewar and family had established and expanded his business in the activities of Construction, Publication, Media, Hospitality etc. Paragraph 16.17 of the said charge-sheet mentioned that, the report submitted by Deputy Director of Income Tax (Inv. Unit- II92), Pune, Maharashtra dated 19th March, 2015 shows that, during 2008-2014, the company had mobilized the deposits to the quantum of Rs. 1116.12 Crores from 47.76 lakhs depositors. The Hon'ble Supreme Court, by Special Leave to Appeal (Crl.). No.(s) 1564/19 and in SLP (Cri) No. 1596/2019, which pertain to investigation of the CBI inspect to Samruddha Jeevan Multi State Multi Purpose Co-operative Society Ltd.,and investigation is carried out by local Police, Odisha. Samruddha Jeevan Foods India Ltd., was among one of the 44 companies. The said charge-sheet also mentioned that investigation surfaced that, Samruddha Jeevan Foods closed its offices, but company continued financial business by accepting deposits through Samruddha Jeevan Multistate Multipurpose Cooperative Society. The charge-sheet also mentions that, investigation revealed that apart from holding major shares in companies, the accused Mahesh Motewar conducted meetings / Seminars at Bhubaneshwar and other places all over India. Several investors deposited money in various schemes floated by companies i.e. Samruddha Jeevan Foods India Ltd., and Samruddha Jeevan Mutistate Mutipurpose Cooperative Society. Learned APP and counsel for intervenor submitted that there was no directions or no provision for transfering investigation in the present case to CBI. The accused Mahesh Motewar was also granted bail in C.R. No. 186 of 2017 registered with Vishram Bag Police Station. Similar observations were made by this Court. The facts of that case were that Samruddha Jeevan Mutstate Multipurpose Cooperative Soceity was formed. The present case relates to investigation relating to Samruddha Jeevan Multistate Multipurpose society. Thus investigation in all cases is overlapping. The CBI has investigated transactions with Samrudhha Foods Pvt. Ltd. And Samruddha Jeevan Multistate Multipurpose Cooperative Society Ltd. The other charge-sheet is in respect to case investigated by CBI is in respect to RC/08/S/2014. In the said charge-sheet it is mentioned that, investigation revealed that, legal action initiated against Samruddha Jeevan Foods By SEBI. The accused continued collection of deposits through Prosperity Agro and Samruddha Jeevan Multistate Multipurpose Cooperative Society Ltd. The investors who were deposting in different plans in M/s. Samruddha Jeevan Foods India Ltd, continued to make deposit in M/s. Smruddha Jeevan Multistate Multipurpose Coopeative Sciety Ltd., Mahesh Motewar in connivance with other accused vide MoU dated 30/05/2013 between Samruddha Jeevan Foods India Ltd., and M/s.Samruddha Jeevan Multistate Multipurpose Cooperative Society Ltd., The Apex Court granted bail in cases investigated by CBI after taken over from Police Odisha. Thus, it is apparent that, the accused Mahesh Motewar and even the applicant was granted bail by this Court in other cases and by the Apex Court in the case registered at Odisha. The applicant is a lady. She is in custody from the date of arrest. The applicant in BA. No.

3110 of 2018 is also in custody for long time in which he has been granted bail. Learned counsel for intervenor submitted that the case is also registered in the State of Gujarat against him. Several witnesses are involved in this case. It is not clear when the trial would commence. Charge is not yet framed. Huge documents are involved. In the light of the aforesaid circumstances, the applicants can be released on bail.

ORDER

(i) Bail Application No. 873 of 2019 and Bail Application No. 3110 of 2018, are allowed;

(ii) The applicants are directed to be released on bail in connection with C.R. No.243 of 2016, registered with Deccan Police Station, Pune, on executing P.R. Bond in the sum of Rs.1,00,000/-, each with one or more sureties in the like amount;

(iii) The applicants shall not tamper with evidence.

(iv) Bail Applications stand disposed of accordingly.

(v) Intervention application disposed of.

(PRAKASH D. NAIK, J.)