

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 723 OF 2021

Ishwar Khanderao Ahire

Applicant

Versus

The State of Maharashtra

Respondent

Mr. P.N. Nagargoje, Advocate holding for D.B. Thoke, Advocate for the applicant.

Mr. S.D. Ghayal, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 27th October, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No. 400/2014 registered with Chalisgaon City Police Station, Dist. Jalgaon, for the offences punishable under Sections 420, 406, 409 read with Section 34 of the Indian Penal Code and under Section 3 of Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

2. Prosecution case is that applicant is the Manager of Micro Finance and Micro Leasing Company. Its Directors are Ashok Kumar Patnaik and Vaikunthnath Patnaik and Unit Manager is Prabhatkumar Panda.

3. Informant lodged First Information Report alleging that one Rahul Agone was working as an agent of the said company. He had represented to the informant that the company had various schemes and if amount is deposited in the scheme, the informant would get attractive returns. Informant was taken by said Rahul Aghone to the applicant who was working as Cashier in the company. Applicant also represented the informant about various schemes and how investment in those schemes would fetch attractive returns. Therefore, informant opened an account for a period of three years in which informant was supposed to deposit Rs.100/- per month. In this manner, he deposited Rs. 600/- with the company. On 29th March, 2019, the informant came to know that an offence was registered against the directors of the said company at Bhubaneswar. On making further inquiries, informant came to know that despite having no authority, the applicant and the directors accepted deposits from the public. Accordingly, First

Information Report came to be lodged and offences under aforesaid sections came to be registered against the applicant and the other accused.

4. Shri Nagargoje, learned counsel for the applicant submits that applicant was a clerk in Micro Finance and Micro Leasing Company. He submits that he had no role to play in framing the policies. He submits that the applicant acted in accordance with the directions of the directors. He is not a beneficiary of any of the amount alleged to be mis-appropriated.

5. Learned APP Shri Ghayal submits that applicant was not a Clerk but was a Branch Manager. He submits that initially, the applicant was appointed as a Clerk and later on he started working as Branch Manager. He submits that there is voluminous evidence indicating that applicant had also represented the informant and public in general to induce them to make deposits in the various schemes of the company. He submits that there is one receipt which indicates that applicant had signed as the Branch Manager.

6. Charge-sheet is filed. Applicant is described in the First Information Report as a Cashier. From the charge-sheet, it does not

appear that applicant was involved in making policy decisions. As per charge-sheet, it appears that applicant was working as Clerk or Cashier in the Chalisgaon Branch of Micro Finance and Micro Leasing Company. Therefore, applicant was acting as per the instructions of the directors. The total mis-appropriation of Chalisgaon branch is Rs. 97 Lacs and odd amount. How much appropriation the applicant has committed is not there on record. There is nothing on record to show that the applicant was the beneficiary of the said scheme. In this view of the matter, since charge-sheet is filed and applicant will be available for trial, I am inclined to release the applicant on bail. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs.30,000/- (Rs. Thirty Thousand) with one solvent surety in the like amount, in connection with Crime No. 400/2014 registered at Chalisgaon City Police Station, Dist. Jalgaon, for the offences punishable under Sections 420, 406, 409 read with Section 34 of the Indian Penal Code and under Section 3 of Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.
- iii) Application is disposed of.

iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M. G. SEWLIKAR)
Judge

dyb