

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1364 OF 2020

Fazluddin Fakruddin Dongari ...Applicant

Versus

The State of Maharashtra ...Respondent

.....
Mr. Rohan Barge for the Applicant.
Ms. PN.Dabholkar, APP for the Respondent -State.

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CORAM : V.G.BISHT, J.
RESERVED ON : 18TH NOVEMBER, 2021
PRONOUNCED ON : 29TH NOVEMBER, , 2021

PC:-

1. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No. 827 of 2020 registered with Vijapur Naka Police Station, Solapur for offences punishable under Sections 420 and 406 read with 34 of the Indian Penal Code (the IPC) and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

2. It is the case of prosecution that informant was approached by applicant, who introduced himself as a founder member of “Virat Future Company”. Accused Kamta Soni and Babita Kamta Soni are the Managing Director and Director of the said company respectively. Projecting attractive returns, informant was induced to invest amounts in the said company. It is alleged that accordingly the informant invested amounts in various schemes of the said company between the period 21st September, 2018 and 20th September, 2019. Even she received the returns as promised. However, when the returns stopped to come, the informant realized that she has been duped and particularly, after the cheques issued by applicant for the amounts due, were dishonoured, she approached the concerned police station. Accordingly, the FIR came to be registered.

3. Mr.Barge, learned Counsel for the applicant, submits that he is claiming parity on the ground that the accused Babita Kamta Soni and Kamta Soni have already been

released on bail by this Court on 17th February, 2021 and 7th July, 2021 respectively. According to learned Counsel, the property of applicant is already seized, which is more than the invested amounts. Even the bank account has also been attached. Investigation is over and in such circumstances, no useful purpose will be served by keeping the applicant behind the bars.

4. Ms. Dabholkar, learned APP, on the other hand, opposed the submissions by contending that the applicant has played the main role. All the witnesses have given the name of applicant. In such circumstances, no parity can be claimed having regard to seriousness of the offence. The application does not merit attention and, therefore, is liable to be rejected.

5. Perused investigation papers. I have gone through the order dated 17th February, 2021 passed by this Court (**Coram : Prakash D. Naik, J.**) in Criminal Bail Application No. 280 of

2021 and the order dated 7th July, 2021 passed by this Court **(Coram: Smt. Bharati Dangre, J.)** in Bail Application No. 1005 of 2021. By virtue of the said orders, the Managing Director, namely, Kamta Haridas Soni and the Director, namely, Babita Kamta Soni, who are husband and wife, have already been released on bail.

6. Admittedly, as per charge-sheet, the applicant had presented rosy picture to the investors and had outlined about range of returns on investing various amounts in the said company and accordingly the investors including informant invested the amount. Even the informant did receive the returns for some period of time and thereafter, the returns were stopped.

7. What is pertinent to note from both the orders passed by this Court is that the property of applicant worth Rs. 57,00,000/- is seized. Even his bank account with an amount of Rs. 10,00,000/- has also been attached. The

amount alleged to be misappropriated is to the tune of Rs . 50,95,000/-. If the valuation of property seized and bank account, which has already been attached, are taken into consideration, then obviously, the said amount is more than the amount alleged to have been misappropriated by applicant and others.

8. Investigation is completed and the charge-sheet is filed. The trial may take considerable time to reach its logical conclusion.

9. In view of above, I am inclined to allow the application. Hence, the following order :

ORDER

(i) Applicant- Fazluddin Fakruddin Dongari shall be released on bail in C.R. No. 827 of 2020 registered with Vijapur Naka Police Station, Solapur on his executing P.R. Bond in the sum of Rs. 25,000/- with one or two local surety/ sureties in like amount.

(ii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.

(iii) The applicant shall attend the trial Court regularly unless exempted.

(iv) Bail before the trial Court.

(v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(vi) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V.G.BISHT, J.)