IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2795 OF 2019

Dnyandev Balaso Kurndvade .... Applicant

versus

State of Maharashtra .... Respondent

WITH
INTERIM APPLICATION NO.16 OF 2021
IN
ANTICIPATORY BAIL APPLICATION NO.2795 OF 2019

Sanjay Kerba Durge & Ors. …. Intervenor

IN THE MATTER BETWEEN :

Dnyandev Balaso Kurndvade .... Applicant

versus

State of Maharashtra .... Respondent

…....

- Mr.Kedar Patil, Advocate for Applicant.
- Mr.D.V. Sutar a/w. Vallari Jethar a/w Nirmal Pagaria, Advocate for Intervenor.
- Mr.Y. M. Nakhwa, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 29th SEPTEMBER, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.764/2018 registered with Shahupuri Police Station, Kolhapur, under sections 406, 409, 420, 201, 120-B r/w 34 of the Indian Penal Code and under sections 3 and 4 of Maharashtra Protection of Interest & Depositors Act (for short 'MPID Act'). Though the application was filed on 11/12/2019, since then he was not protected by any interim order for quite some time. For the first time, he was protected by way of interim order on 26/04/2021. For more than a year the Applicant was not available and was not arrested as stated by learned APP on instructions.

2. Heard Mr.Kedar Patil, learned counsel for the Applicant, Mr.Y.M. Nakhwa, learned APP for the State and Mr.D.V. Sutar, learned counsel for the Intervenor.

3. The FIR was lodged on 08/12/2018 by one Sanjay Kerba Durge. It is mentioned in the FIR that one company known as 'M/s Mekar Group India' started their branch in

Kolhapr since 2011. The company was functioning since 2010 and was having their office in Pune. The FIR further mentions that the present Applicant and one Purushottam Hasabnis were officers of Kolhapur branch. The first informant invested in the said company and thereafter started working as agent of that company. It is the case of the first informant that the Applicant and Hasabnis arranged the seminars in Kolhpaur at the instance of Chairman and Managing Director of the company Ramesh Valse-Patil and Manohar Ambulkar. They informed the people who attended the meeting about their investment schemes. They showed various places where the company was carrying out construction and promised handsome returns to their investors. The Chairman and other office bearers of the company gave lectures and explained various investment schemes to around 2500 to 3000 people, who had attended that seminar. The FIR goes on to mention names of different investors and the amounts which they had invested. According to him, all those investments were not returned and the investors had suffered monetary loss. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that after filing of this application the Applicant had gone to Canada to meet his son and it will not be correct to say that he was not available. He submitted that the Applicant was used by the company because he was a popular citizen in Kolhapur. The company had in fact taken advantage of his image and thus he himself is a victim. He submitted that the main offenders in this case are not arrested. The Applicant only was an agent. He is not a beneficiary of any amount received by the company. He submitted that he had no intention to cheat the investors and he himself genuinely believed that the company's activities were genuine and returns were available for giving to the investors. He submitted that since 2016, the company stopped making payment to the investors. Till then it was running smoothly and nobody had any grievance. He submitted that one Ambulkar has taken the responsibility of repaying of the investments, which also shows that the Applicant is not involved and the investors are sufficiently protected. He submitted that the amount has gone to the company's account and not to his individual account.

5. Learned APP strongly opposed this application. He produced investigation papers before me. It is the case of the investigating agency that there were 8985 investors. The fraud amount involved in this case is about 56,44,52,831/-. The business of company was spread over 13 districts and all over these places the investors were cheated. The Applicant cannot claim disassociation from the company because he was the chief agent for Kolhapur. Mr.Nakhwa further submitted that about 162 investors have named the Applicant and have described his specific role of inducement. He submitted that the Applicant had entered into the land purchase transaction in his own name on behalf of company, which shows that he is actually involved and his also beneficiary of the entire fraud.

6. I have considered these submissions and have also perused the investigation papers produced before me. There is statement of one Tanaji Patil, who had sold his land at Gat No.793 at village Savarde. He has stated that, on 02/11/2015,

the Applicant, co-accused Purushottam Hasabnis and Balaso Pawar had gone to Savarde. They had seen the land and they had decided to purchase that land. The land owner Tanaji was paid around Rs.46,74,000/- by the Applicant and the other accused. From time to time this land owner had gone to the company's office. I have also perused the agreement for sale dated 11/11/2015. That land was purchased in the Applicant's individual name. This particular transaction does show that the land was purchased by the Applicant, but it was not his individual transaction. The other co-accused associated with the company are also involved. The money was paid from the company's office.

7. Learned APP had submitted that about 162 investors have named the Applicant. One such statement, for example, described as to how the Applicant was also instrumental in inducing the investors into investing in that company. The Applicant was described as senior agent of that company. When the investors were shown various places, where the company

was purportedly having its project, the Applicant was always present to tell the investors about those projects. The investors had specifically asked the Chairman of the company as well as other office bearers including the present Applicant as to why the lands were purchased by the company in individual names of their officer bearers and not in the name of the company. At that time all of them including the Applicant had told them that, it was their standard procedure and investors should only be concerned with the returns. This allegation is specifically made against the Applicant as well.

8. Considering all these aspects it is clear that the Applicant is deeply involved in the affairs of the company which has caused serious financial loss to number of investors and the fraud amount is running into more than Rs.56 crores. In this view of the matter, custodial interrogation of the Applicant is absolutely necessary. No case for grant of Anticipatory Bail is made out. The application is rejected.

9. At this stage, learned counsel for the Applicant prays for continuation of interim relief granted to him. However, the Applicant was without protection for more than a year. No efforts were made to seek any interim order. He was not even available for interrogation. As rightly submitted by learned APP, the Applicant could not be in Canada for this entire period of about one year. Yet he was not available for investigation at all and therefore I am not inclined to extend the interim relief.

10. With the disposal of this application, Interim Application does not survive and is also disposed of. In any case I have heard learned counsel for the Intervenor.

(SARANG V. KOTWAL, J.)