**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL BAIL APPLICATION NO. 148 OF 2021**

Mahesh Kisan Motewar .... Applicant
Versus
The State of Maharashtra .... Respondent

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Mr. Suresh Tripathy a/w. Sumedh Sonawane i/b. Mr. Mayank Sharma for Applicant.
Smt. A. A. Takalkar, APP for State/Respondent.

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**CORAM : SARANG V. KOTWAL, J.**
**DATE : 23rd JUNE, 2021**
**(Through Video Conferencing)**

**P.C. :**

1. The Applicant is seeking his release on bail in connection with C.R.No. 243 of 2016 registered at Deccan police station, on 29/09/2016 under sections 409 and 420 r/w. 34 of the Indian Penal Code (for short 'IPC') and under section 3 of The Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (for short 'MPID Act'). The applicant was arrested in connection with this case on 18/05/2019 and since then he is in custody in connection of this particular case. The investigation is over and the charge-sheet is already filed.

2. Heard Shri. Suresh Tripathy, learned counsel for the applicant and Smt. Takalkar, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') was lodged by one Kiran Dixit on 29/09/2016. He has stated in his F.I.R. that, he had decided to invest with Samruddha Jeevan Multi State Multi-purpose Co-operative Society Ltd. (hereinafter referred to as 'the society'). The informant was aware that the society had floated various schemes in many states like Maharashtra, Gujarat, Rajasthan etc. and had more than 400 branches. The society was giving higher returns than normal banks. The informant has given details about his own investments. He had deposited various amounts in his own name, as well as, in his wife's name from July, 2015 onwards. He had invested these amounts in different schemes dealing with live stock, Fixed Deposits etc. He had deposited around Rs.1,75,000/-, but he did not receive the returns. The F.I.R. mentions that, there was other investor namely Vasant Thakur who had also invested and had not got his returns. The informant came to know that the applicant who was Ex-Chairman

of the society was facing various offences and, therefore, the returns were not given back to the investors. Therefore, considering the promised returns to the informant and Vasant Thakur, the informant claimed that they were cheated to the tune of Rs.41,53,063/-. On this basis, he has lodged this F.I.R. against the society and it’s Directors.

4. In connection with this offence, the applicant was shown arrested on 18/05/2019. However, he was already in custody since 16/12/2015 in connection with other offences. Thus, as of today, he is continuously in custody since 16/12/2015.

5. Learned counsel for the applicant submitted that the Hon’ble Supreme Court, vide order dated 09/05/2014 passed in Writ Petition (Civil) No.401 of 2013 and 413 of 2013 and in Writ Petition (Civil) No. 324 of 2014 had directed the investigation by C.B.I. in connection with the alleged offences committed by 44 different companies. Learned counsel for the applicant submitted that the society, as well as, Samruddha Jeevan Foods India Ltd.

(hereinafter referred to as 'the said company') were amongst those 44 companies whose affairs were directed to be investigated by the C.B.I. pursuant to the order passed by the Hon'ble Supreme Court.

6. Shri. Tripathi, submitted that, accordingly, C.B.I. had registered two separate F.I.Rs. and had filed charge-sheets. The first F.I.R. was bearing number RC 34/S/2014-CBI/KOL of C.B.I., SPE, SCB, Kolkatta/CBI/SEB/Bhubaneswar. It was dated 05/06/2014. The investigation was carried out in respect of collection of deposits and misappropriation of those amounts in respect of the aforementioned company. The investigation culminated in charge-sheet No. 16 of 2016 dated 23/08/2016 (hereinafter referred to as 'first CBI charge-sheet'). In connection with this charge-sheet, the applicant was shown as accused No.1 and the said company was shown as accused No.2. In connection with this investigation, the Hon'ble Supreme Court had granted bail to the present applicant vide order dated 26/10/2018 passed in Special Leave to Appeal (Criminal) No.7563 of 2018. It was observed in the order thus: -

> "The petitioner has been arrested on 16.12.2015 and has since been in jail. The chargesheet has since been filed on 23.08.2016. However, the charges have not yet been framed.
>
> Given the fact that the petitioner has been incarcerated for a period of almost three years, we enlarge him on bail to the satisfaction of the trial court.
>
> The Special Leave Petitions stand disposed of."

7. Learned counsel for the applicant submitted that, CBI had lodged another F.I.R. vide No. RC 08/S/2014-CBI/KOL with CBI, Sspe, SCB, Kolkata/ CBI, EO-VII, Bhubaneswar dated 04/06/2014. The charge-sheet in that case was filed on 19/07/2018. The said charge-sheet pertains to the investigation of the affairs of the society. (hereinafter referred to as the 'second CBI charge-sheet). In that connection also the applicant was arrested and he was granted bail by the Hon'ble Supreme Court vide order dated 23/04/2019 passed in SLP (Cri.) No.1564 of 2019.

8. Learned counsel for the applicant submitted that, present charge-sheet which is the subject matter of this application pertains to the affairs of the society and allegations pertain to the

investments obtained by the society. He, therefore, submitted that the Hon'ble Supreme Court has already granted bail in the second CBI charge-sheet pertaining to the society itself. Therefore, the investigating agency should not have arrested the applicant in the present case. This arrest would be in violation of the order of the Hon'ble Supreme Court. He submitted that the present investigating agency could not have conducted parallel investigation as the subject matter is already covered by the aforementioned two CBI chargesheets filed against the applicant, his company and the society.

9. Learned APP opposed this application. She submitted that the offence is serious. The amount involved in the offence is huge. She submitted that the applicant is the mastermind and the main culprit. Throughout India, the company and the society have collected Rs.5211 Crores 69 lakhs and have misappropriated Rs.4725 Crores 64 lakhs. The applicant is Director in 16 companies of the same group and is the main beneficiary. There is a possibility that, if he is released on bail, he will pressurize the witnesses. She

submitted that the investigation is still going on and the authorities are in the process of identifying and confiscating applicant's property, out of which, 73 properties are identified and the process for seizure of these properties is under way. These submissions are based on the report filed by the investigating agency. A copy of that report is taken on record and marked 'X' for identification. Learned APP has also relied on the affidavit filed by the investigating officer which basically points to the same argument. Learned APP has also submitted that a Liquidator has already been appointed for the society.

10. I have considered these submissions. In the first order relied on by Shri. Tripathi in respect of W.P. (Civil) No.409 of 2013 dated 09/05/2014, the Hon'ble Supreme Court has considered various aspects. Importantly, in paragraph No.23 of that order it was observed that, looking to the nature of the scam and its inter State ramifications, cases registered in the State of Tripura had since been transferred to the CBI for investigation at the request of the State Government.

Clause B in paragraph No.34 reads thus:-

**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 investigation into all such cases in which chargesheets have already been filed."

11. Shri. Tripathi has submitted that the aforementioned company and the society are amongst list of those 44 companies in whose connection the directions were issued by the Hon'ble Supreme Court.

12. It is necessary to advert to little background of this case. The first chargesheet of CBI gives a brief history of incorporation of the company, as well as, formation of the society. At the first instance, on 29/04/2002, original company was incorporated by name Gurukrupa Diary Private Limited. Name of the company was changed to Samruddha Jeevan Foods India Private Limited w.e.f. 17/09/2003. On 13/04/2006, status of the company was converted to Public Limited company and the name

was changed to Samruddha Jeevan Foods India Limited, having its registered office at Shivaji Nagar, Pune. Allegations of misappropriation of funds in connection with this company forms subject matter of the first CBI chargesheet mentioned herein above. The first charge-sheet mentions that the main objective of the company was to carry on in India or elsewhere the business to produce, breed, manufacture, purchase, sell, transfer livestock etc., to run goat farms at different places and to manufacture all types of food products, agricultural products, fertilizers, animal foods etc. The applicant was Managing Director at the inception and he continued to hold important position. The company collected and mobilized deposits from the public through different plans in the guise of sale, purchase of cattle. It appears that, because of SEBI restrictions the company was prohibited from collecting any money and from transferring any assets. Those restrictions were imposed vide order dated 31/10/2013 issued by SEBI. A final order was passed on 02/09/2015. To circumvent these restrictions, the aforementioned society was formed. The applicant was the Chief Promoter of the society and under various schemes of this society, the collection of investments from investors continued. The first charge-sheet mentions that the company had mobilized funds to the tune of Rs.1116.12 crores from more than 47 lakhs depositors between years 2008-2014 and for that purpose the first charge-sheet was filed. There was a specific reference to the aforementioned society, as well, in that charge-sheet.

13. The second C.B.I. charge-sheet dated 19/07/2018 has particularly concentrated on the affairs of the society and the misappropriated amount was mentioned in paragraph No.16.24 as Rs.525.68 crores as the total investment.

14. In this connection, as pointed out by the learned counsel for the applicant, the Hon'ble Supreme Court had granted bail to the applicant vide order dated 23/04/2019, passed in SLP (Cri.) No. 1564 of 2019.

15. Coming back to the present case and investigation, the charges reflected in the charge-sheet mention this history of

incorporation of the company, as well as, formation of the society. The reference is to the misappropriation of investments made with the society. The charge-sheet mentions the same figure of Rs.525.68 crores in respect of the said society and misappropriation of that amount collected from the investors. Thus, as pointed out, for this same specific subject matter of the second CBI charge-sheet, the Hon'ble Supreme court has already granted bail to the present applicant.

16. In the first order dated 09/05/2014 passed by the Hon'ble Supreme court in W.P. (Civil) No.409 of 2013, the Hon'ble Supreme court had permitted the CBI to conduct further investigation of such cases. Now the charge-sheets are already filed by C.B.I. Thus, the subject matter of the present investigation was also the subject matter of the CBI investigations referred to herein above. In those investigations, the applicant is already granted bail by the Hon'ble Supreme Court, therefore, following those orders of the Hon'ble Supreme court, the applicant can be granted bail in the present case also.

17. As rightly submitted by Shri. Tripathi, this court; in the order dated 23/08/2019 passed in Criminal Bail Application No.1734 of 2019 in connection with C.R.No.384 of 2014 of Chatushrungi police station and in the order passed in Criminal Bail Application No.1750 of 2019 in connection with C.R.No.186 of 2017 registered at Vishrambaug police station; has taken the same view and has granted bail to the applicant. Therefore, in the present case also the same course will have to be adopted. Hence the applicant deserves to be released on bail. The apprehension expressed by the investigating agency can be taken care of by imposing certain conditions.

18. Hence, the following order :

**ORDER**

(i) In connection with C.R.No. 243 of 2016 registered at Deccan police station, Pune, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.1,00,000/- (Rupees One Lakhs Only) with one or two sureties in the like amount.

(ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.

(iii) The Applicant shall deposit his Passport; if any and if not already deposited; with the Investigating Officer, before being released on bail.

(iv) The Applicant shall not leave India without prior permission of the trial court.

(v) The Applicant shall give his contact number and residential address to the Investigating officer before being released on bail. In case of any change of address and contact number, the Investigating officer shall be informed about that well in advance.

(vi) The Applicant shall not directly or indirectly tamper with the evidence.

(vii) Application stands disposed of accordingly.

**(SARANG V. KOTWAL, J.)**