IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 488 OF 2020

Ravindra Vasudev Bari …. Applicant
v/s.
The State of Maharashtra …. Respondent

Mr. S.V. Marwadi i/b. Mr. N.M. Nadar for the Applicant.
Mr. S.V. Gavand, APP for the State.
Mr. Somnath Kadam, API, Arijinimor Police Station, Gondhia.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 09th SEPTEMBER, 2021.

P. C. :-

. This is the 3rd Bail Application under Section 439 of Cr.P.C. filed by the aforesaid Applicant who is facing trial in Special (MPID) Case No.02/2018 arising from C.R.No.I-267/2017 registered with Boisar Police Station for offences under Sections 120-B, 406, 420, 467, 468, 471 r/w. 34 of the Indian Penal Code and under Section 3 of the Maharashtra Protection of Interests of Depositors (MPID) Act, 1999.

2. The 1st Bail Application No.2513/2018 was withdrawn with liberty to file fresh Application after completion of investigation. Whereas, the 2nd Bail Application was dismissed for having suppressed withdrawal of the previous Bail Application. Both these Applications

were not decided on merits. The present Application has been filed after filing of the charge sheet.

3. Mr. Marwadi, learned counsel for the Applicant states that the Applicant is not associated with the Gayatri Marketing partnership firm or Gayatri Maa Marketing, a proprietorship concern. He states that there is no prima facie material to show that he is involved in inducing the investors to deposit the money and/or cheating the said investors. Mr. Marwadi, learned counsel for the Applicant states that the property of the Applicant worth Rs.48,70,000/- has been attached. He further states that the co-accused Rajesh Vitthal Vaze, Mohammed Rahish Chaudhary and Rajubhai R. Bhammar have already been released on bail. He therefore submits that the Applicant is entitled for bail on the principles of parity.

4. Initially, the matter was argued by Ms. P.N. Dabholkar, learned APP. This Court had also requested Mr. S.V. Gavand, learned APP to assist in this matter since the records are voluminous and the Investigating Officer was unable to give instructions to Ms. P.N. Dabholkar.

5. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

6. The crime against the Applicant is registered pursuant to the First Information Report lodged on 27/12/2017 by Umesh B. Bharwad. The records indicate that Gayatri Marketing is a partnership firm of which Mohd. Rahish Chaudhary and Rajubhai R. Bhammar, accused nos.4 and 5 and deceased Altafbhai Y. Sorathiya were partners. Gayatri Maa Marketing is a proprietorship concern of accused no.3 – Harshad Bari. The records prima facie indicate that some time in the year 2015, Gayatri Marketing started a lottery scheme in Bhilad, Gujarat. The said scheme involved investment of monthly installment and rewarding the investors with gifts such as laptop, air conditioners, washing machine, refrigerator, LEDTV, etc. as per the monthly draw. In January, 2016, the said partnership firm started a lottery scheme in Boisar, District Palghar. The investors were persuaded to deposit monthly installment for 20 months to the extent of Rs.13,250/-. In a monthly draw, 50 investors were entitled for gifts such as laptop, AC, washing machine, refrigerator, LEDTV, etc. The investors were informed that in the last draw to be held by the end of 20th month, they would get Audi Car, Innova, Scoda, Swift, etc. The investors who did not get such monthly

gifts were entitled to get other gifts which were to be collected from the office of the firm.

7. The first informant – Umesh Bharwad alleged that he had deposited an amount of Rs.13,250/-. He did not receive any gift in the monthly draw. When he visited the office of the firm, he found that the office was closed and that the phones of the organizers were switched off and they were not traceable. He therefore lodged the first information report against the organizers which came to be registered under C.R.No.I-267/2017 for offences under Section 420 r/w. 34 of the Indian Penal Code and Section 3 of the MPID Act, 1999. The Applicant was arrested on 19/02/2018. Upon completion of investigation, charge sheet came to be filed against the Applicant and the other co-accused.

8. The records do not indicate that the Applicant herein is either a partner of the partnership firm or that was he was associated in any manner with the said parnership firm – Gayatri Marketing. He was also not associated in any manner with the said proprietorship concern – Gayatri Maa Marketing. There are no specific allegations against the Applicant to indicate that he was responsible in floating the said scheme or that he had induced the said investors to deposit the money

in the said scheme. The only material against the Applicant is that the pamphlet issued by the firm showed the name of the Applicant as one of the organizers.

9. The records indicate that 3179 investors had invested an amount of Rs.4,21,21,750/-. The Investigating Officer has not recorded statement of any of these investors. The records prima facie indicate that the partnership firm had appointed various agents to collect the money from the investors. The investors had allegedly handed over the amount to the said agents who in turn had handed over the said money to the 09 organizers of the scheme, either jointly or individually. The Investigating Officer had not recorded the statements of these agents. It is seen that the Investigating Officer had prepared a chart giving the names of 56 agents, the list of investors, the money invested by these investors and the details of the person to whom this money was paid. This chart which is in a tabular form cannot be considered as a statement under Section 161 of Cr.P.C. Ms. Dabholkar, learned APP states that the statements of some of the agents have now been recorded in the course of further investigation under Section 173(8) of Cr.P.C. The said statements are not yet filed before the MPID Court and no reasons are assigned for recording the statements after a lapse of

four years.

10. Be that as it may, the statement of account of the Appllicant which is at page 482(B) to 486 shows that some amount was credited/transferred in his account. There is no investigation as to from whose account the said amount was debited and/or credited/transferred in the account of the Applicant. There is thus no prima facie material to show that the money received from several investors was deposited by the agents in the account of this Applicant. In my considered view, the material on record does not prima facie indicate that the Applicant had induced the investors to deposit the money. The nature of accusations and the nature of the evidence in support thereof would not justify further detention.

11. Furthermore, the Applicant is in custody since 19/02/2018. Till date, the charge has not been framed and the investigation under Section 173(8) is still in progress. The Investigating Officer has attached properties of the Applicant. However, till date no steps in respect of attachment of the properties have been taken. It is also stated that the three accused are absconding. In the circumstances, it is evident that the trial is not likely to conclude in the near future.

12. It is also pertinent to note that the other co-accused namely Rajesh Vaze, Mohd. Rahish Chaudhary and Rajubhai R. Bhammar have been enlarged on bail. The role attributed to the present Applicant is similar to the role attributed to the co-accused - Rajesh Vaze. Hence, the present Applicant is also entitled for bail on the ground of parity.

13. Considering the totality of the circumstances, the Applicant has made out a case for grant of bail. Hence, the Bail Application is allowed on following terms and conditions :-

(a) The Applicant is ordered to be released on bail on furnishing P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand) with one or two sureties in the like amount ;

(b) The Applicant shall report to Boisar Police Station once in a month on every 1st Saturday between 11:00 a.m. to 01:00 p.m. until further orders ;

(c) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case ;

(d) The Applicant shall keep the Trial Court informed of his current address and mobile contact numbers and/or change of residence or mobile details, if any, from time to time ;

(e) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

14. Bail Application stands disposed of accordingly.

15. Ms. P.N. Dabholkar, learned APP prays for stay of bail order for a period of four weeks. The request is devoid of merits and is accordingly rejected.

PREETI H JAYANI

Digitally signed by PREETI H JAYANI
Date: 2021.09.14 16:14:27 +0530

(SMT. ANUJA PRABHUDESSAI, J.)