IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 749 OF 2020

Dattatray Mukund Deshmukh .... Applicant

Versus

The State of Maharashtra .... Respondent

Mr. Vikas Kudiya, for the applicant.
Mr. S.S. Pednekar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 8th JULY, 2021
(Through Video Conferencing)

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No. 45 of 2019 registered at Badlapur Police Station, Thane, on 22/03/2019 under sections 420, 406 read with Section 34 of the Indian Penal Code and under Section 3 of the Maharashtra Protection of Interest of Depositers (In Financial Establishments) Act, 1999. The applicant was arrested on 12/04/2019 and since then he is in custody. The investigation is over and the charge-sheet was filed on 10/06/2019.

2. Heard Mr. Vikas Kudiya , learned counsel for the applicant and Mr. S.S. Pednekar, learned APP for the State.

3. The FIR was lodged by one Pradip Kandalkar on 22/03/2019. He has stated that in the year 2014, he came to know that the the applicant’s wife was conducting a monetary fund by name Mumbadevi Fund. She was giving 5% interest per month on the investment. He came to know that many people had invested with her. Initially the informant had deposited Rs. 1 lakhs, in the month of April 2014. He received Rs. 01,05,000/- within a month. Therefore the informant started trusting the applicant and his wife. In the FIR it is further mentioned that he then invested Rs. 36 lakhs with the applicant and his wife. The applicant and his wife gave him a card of their fund wherein only Rs. 9,14,000/- were mentioned. The amount was not returned, In the meantime, the applicant tried to set off some amount through sell of his vehicle to the informant but that was also not completed. The informant came to know that many such investors

were cheated. The FIR itself shows list of 29 such investors who had deposited Rs. 1,29,49,546/- in all, besides the informant. The total amount which is subject matter of the FIR is Rs. 1,65,40,546/-

4. The applicant was arrested on 12/4/2019 and since then he is in custody. The investigation was carried out. The charge-sheet contains statements of many investors and at the conclusion of the investigation, the prosecution case is that the total number of investors were 66 including the informant. The amount was not returned and the total amount involved in the offence was Rs. 01,92,51,300/-.

5. Learned Counsel for the applicant submitted that the applicant is in custody for more than two years. His house and two shops are seized. There was no other property which can be seized. He therefore, submitted that further custody of the applicant will not serve any purpose. The applicant ultimately will have to face the

trial and he can be punished if the offences are proved against him, However, he cannot be indefinitely kept behind bars in the present situation.

6. Learned APP opposed this application. He submitted that 66 victims were cheated by the applicant and his wife and therefore, no leniency should be shown to him as the amount involved is more than Rs. 1 crores 92 lakhs.

7. I have considered these submissions. I have perused the charge-sheet with the assistance of both learned Counsel. Statements of other victims is on the similar lines as that of the first informant. Those statements show that on their investments, victims were given a card where their investment details were mentioned. There was also scheme of recurring deposit which was also reflected on the cards. The investments were accepted in small installments also. The promised amount was also mentioned on the cards. However, a

common grievance was that promised returns were not given and the investors had lost their money. The charge-sheet also contains some documents executed by the applicant wherein he had promised to return certain amounts to some of the investors. Therefore, at this stage there is sufficient material with the prosecution against the present applicant showing that the offence alleged against him are prima faice made out.

8. However, I am considering following aspects besides merits of the case :-

(I) The applicant's residential flat being No. 302, A wing, third floor, Bhagirathi Pride, admeasuring 515.91 sq ft., his shop No. 13 in C Wing of the same complex admeasuring 96.83 sq ft. and shop No. 14 in the same C Wing admeasuring 162 sq ft were sized and the competent authority was appointed in respect of those properties, in accordance with provisions of MPID Act.

(ii) There is no other property of the applicant revealed after thorough investigation into the matter.

(iii) The applicant is in custody since 12/04/2019. There are no other criminal antecedents against the applicant.

(iv) The trial is likely to take a long time even to commence and further more time to conclude. It would not be proper to keep the applicant in jail as an undertrial prisoner for inordinate period.

9. Considering all these aspects, no further purpose will be served by denying the bail to the applicant. Therefore, I am inclined to grant bail to the present applicant.

10. Hence the following order.

<u>O R D E R</u>

(i) In connection with C.R. No. 45 of 2019, registered with Badlapur Police Station, Thane, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.01,00,000/- (Rupees One lakh Only) with one or two sureties in the like amount.

(ii) The applicant shall deposit his passport, if any, with the investigating Officer before being released on bail.

(iii) The applicant shall not leave India without prior permission of the trial Court.

(iv) The applicant shall attend the concerned Police station once in a month till framing of the charges.

(v) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)