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

CRIMINAL BAIL APPLICATION NO. 1615 OF 2021

Sohel Muktar Shaikh .... Applicant

Versus
The State of Maharashtra .... Respondent

CRIMINAL BAIL APPLICATION NO. 1544 OF 2021

Abhishekh Sadashiv Kamble .... Applicant

Versus
The State of Maharashtra .... Respondent

Mr. Veerdhaval Kakade, i/b Mrunal Jadhav, for the applicants.
Mr. H.J. Dedhia, APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.
DATE : 26th JULY, 2021
(Through Video Conferencing)

P.C. :

1. Both these applications are decided by this common order because they arise out of the same investigation and the same offence. For the sake of convenience, the applicants are referred to by their

names.

2. The applicants are seeking their release on bail in connection with C.R.No. 76 of 2019 dated 14/04/2019, registered at CBD Belapur Police Station, Navi Mumbai, under sections 420, 409 read with Section 34 of the Indian Penal Code. Subsequently Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act are also added. The investigation was carried out by Crime Branch.

3. Heard Mr. Veerdhaval Kakade, learned counsel for the applicants and Mr. H.J. Dedhia, learned APP for the State.

4. Prosecution case in brief is as follows:-

The FIR was lodged by one Sandesh Mhatre. The first informant was called to the office of M/s Semister Global Services Pvt. Ltd. (hereinafter referred to as the 'said Company'). He was induced into coming to the said Office by telling him that he had won a gift in a lottery and he had to attend one session of their Company. When he went there, Sales Manager and agents told him about some scheme where he could invest Rs. 01, 25,000/- and could get a holiday package membership. He was told that he would get holiday package for five years. He invested his amount. Thereafter no such package was given. The amount was misappropriated. The prosecution case is that similar to the first informant; there were 31 other customers and total misappropriated amount was Rs. 26,34,951/-. On this basis the FIR is lodged against the said Company. After investigation, charge-sheet was filed against the Directors, Managers, agents and others connected with the said Company. The applicants were arrested on 01/01/2020 and since then they are in custody. The investigation is over and the charge-sheet is filed.

5. Learned Counsel for the applicant submitted that according to the prosecution case, the Applicant Sohel was Branch Manager of the said Company and

applicant Abhishek had allegedly executed the rent agreement for obtaining premises for the said Company. He submitted that both these accused have not gained any illegal monetary benefit and they have not misappropriated any amount. He submitted that applicant Sohel's property which is much more than amount of the investigation i.e. Rs. 26,34,951/- is already seized during the investigation. Therefore, no purpose will be served by keeping the applicants in custody during the entire period of trial. The trial itself is likely to take a long time to commence and even more time to conclude. According to learned Counsel for the applicant, all other accused including Directors of the Company were granted regular bail. Therefore, on grounds of parity also the applicants deserve to be released on bail.

6. Learned APP relied on the investigation carried out in this case. He submitted that many victims were duped by the said Company. Definite role is attributed to both these applicants.

7. I have considered these submissions. The prosecution story is mentioned in the charge-sheet. In column No. 16 of the said charge-sheet reference to the allegations in the FIR and stand of the other victims are mentioned. It is mentioned in that part of the charge-sheet that one Nasir Husain was a Director of the said Company. Actually it was started by one Kadarbasha Shaikh, Afaq Khan and the applicant Sohel. They had initially started the company known as Likizo Services Pvt Ltd in April 2018. Subsequently, that company was made dis-functional and the business was conducted through M/s. Semister Global Services Pvt. Ltd. There are allegations that the amounts deposited by the investors were diverted by various persons associated with Likizo Services and the same amount had come in the account of the applicant Sohel. Other part of the amount was transferred to Kadarbasha Shaikh. Some amount had also come in the account of the applicant Abhishekh.

The specific allegations against the present applicant Abhishekh is that he had executed a rent agreement and the premises for the said company's business was procured by him. Director of the said Company Likizo Services Pvt Ltd. was arrested but the investigation revealed that the accounts opened in his name were actually handled by other accused including the applicant Sohel. The main accused was Kadarbasha Shaikh and the investigation revealed that he was involved in C.R. Nos. 223/2018 of Amboli Police Station and C.R. No. 76 of 2019 of CBD Police station. The amounts in those offences which were more than Rs. 60 lakhs were transferred in Kadarbasha Shaikh's wife's account.

8. In the present case, there were 28 investors and total amount of the offence was Rs. 22,69,950/-. In the investigation it is revealed that those amounts were transferred in the account of Kadarbasha Shaikh from Likizo Services and Semister Global Services Pvt Ltd. The applicant Abhishekh was described as Admin Manager.

He was entrusted with the work of appointing employees, looking after their salary and procuring office premises for the company. He was also making representations to the prospective investors. Similarly Sohel was described as a Branch Manager of said Company and in the employee file he was described as General Manager. He also used to give information of the scheme to the prospective investors. It is mentioned that he has received back amounts from the account of M/s Likizo Services Pvt Ltd. Importantly, the investigation shows that certain immovable property in the form of flat at Yerwada was connected with the applicant Sohel and it was already seized under section 4 of MPID Act. Similarly, bank account of his close relatives was freezed because it was suspected that amount involved in the crime was transferred to that account. In that account there was balance of Rs. 26,75,961/-. Similarly, his immovable property at Lohagaon was secured in C.R. No. 119 of 2019 registered at NRI Police Station. This property was worth much more than the amount involved in this offence. It is already secured by the investigating agency.

9. The charge-sheet contains statements of other victims mainly Rajesh Kamble, Sanjana Kumar, Anil Rangole, Atul Bhavsar and other such victims who have similarly stated about the misappropriation of the amount by the said Company. The charge-sheet also contains standard agreements entered into by the said Company with these victims.

10. Thus at this stage, the investigating agency has sufficient material to show that all these investors were duped by the said Company. However, as mentioned earlier the amount of the fraud involved has remained at Rs. 26,34,951/-. The property secured from the applicant Sohel is much more than this figure which includes bank accounts. The applicants do not appear to be the only persons responsible for the offence. The others are granted bail.

11. In this view of the matter, since other accused are already released on bail and since the applicants are in custody since 01/01/2020, their application for bail can be considered in their favour. It is also to be noted that trial is likely to take long time even to commence and further more time to conclude. I see no propriety in keeping these applicants in custody. In the background of the above discussion, both the applicants deserve to be released on bail.

12. Hence the following order.

O R D E R

(i) In connection with C.R. No. 76 of 2019 registered with CBD Belapur Police Station, Navi Mumbai, the Applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.50,000/- each (Rupees Fifty Thousand Only) with one or two sureties each in the like amount.

(ii) The applicants shall deposit their passport, if any with the investigating

Officer before being released on bail.

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

(iii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)