IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2458 OF 2021

Vinod Balu Patil ..Applicant
Vs.
The State of Maharashtra ..Respondent

Mr.S.T. Pandey a/w Mr.Arvind Singh, Mr.Ashif Hussain, Ms.Deepika Oswal, Mr.J.M. Patel, Ms.Ramsha Khatib and Ms.Bharati Bhosale i/b Mr.Dilip Shukla for the Applicant.

Mr.S.R. Agarkar, APP, for the Respondent-State.

CORAM : C.V. BHADANG, J.

DATE : 22 NOVEMBER 2021

P.C.

. This is second bail application filed by the applicant. The previous bail application being LD/VC/DIST/Bail Application No.177/2020 was disposed of by a detailed order on 2 November 2020. After noticing that the prosecution has examined 11 witnesses and trial to be expedited.

2. The Applicant was granted liberty to renew the request for bail after a period of six months if there is no substantial progress in the trial before the Special Court. It is in pursuance of this liberty that the present application is filed.

3. The Applicant is accused No.1. The applicant along with co-accused is facing prosecution for the offence punishable under Section 420, 406, 409, 468, 471 read with Section 120B of the Indian Penal Code ('IPC' for short) and Section 3 and 4 of The Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 ('MPID Act' for short) and Section 36, 73, 74, 75 and Section 447 of the Companies Act, 2003. The prosecution has also invoked Section 17 and 23 of the Securities Contracts (Regulation) Act, 1956 and Section 12 and 24 of The Securities and Exchange Board of India Act, 1992 ('SEBI' for short) and Section 3, 11 and 14 of the The Maharashtra Ownership of Flats (Regulation of the Promotion, Construction, Sale, Management and Transfer) Act, 1963 ("the MOFA" for short).

4. The allegation is that the applicant along with the co-accused Sushant Kothule (Accused No.2) had floated a company by name 'House of Investment' which was registered under the Companies Act. The material allegation is that the applicant obtained deposits from several depositors assuring an exorbitant return or allotment of a plot on maturity, at the option of the investors and had thereafter defaulted in the same.

5. I have heard the learned counsel for the applicant and the learned Additional Public Prosecutor.

6. The learned counsel for the applicant has pointed out that when the order dated 2 November 2020 was passed the prosecution had examined 11 witnesses and there is no substantial progress in the trial since then as till today, the prosecution has exmained 13 witnesses. Out of a list of 46 additional witnesses which was submitted on 5 January 2021, only three witnesses are examined. The applicant was arrested on 15 March 2017 and he is in jail for a period of 4 years and 8 months.

7. The learned Additional Public Prosecutor did not dispute that the prosecution has submitted additional list of 46 witnesses and till today a total of 14 witnesses have been examined and out of the additional list 3 witnesses are examined.

8. I have considered the circumstances and the submissions made. The principle offence is under the MPID Act which invites a maximum sentence of six years. The learned counsel for the applicant has pointed out that *prima facie* the offence under Section 409 of IPC may not be attracted as applicant does not fall under any of the categories as referred to in the said Section. He has also relied upon Section 436A of the Cr.P.C, in order to submit that the applicant has suffered more than ½ of the imprisonment under the MPID Act. The applicant is a permanent resident of Nashik. In this

case except the present applicant all other co-accused are released on bail. In such circumstances, the following order is passed.

ORDER

(i) The applicant be released on bail, on executing a P.R. Bond in the sum of Rs.1,00,000/-with one or more solvent sureties, in the like amount.

(ii) The applicant shall undertake to remain present before the learned Special Judge during the trial.

(iii) The applicant shall surrender his passport before the Special Court.

(iv) The applicant shall not tamper with the prosecution evidence/witnesses and shall co-operate for an early disposal of the trial.

(v) The applicant is permitted to avail of cash surety of Rs.1,00,000/- for the period of three weeks after which PR/SB bonds as aforesaid be furnished.

(vi) The Criminal Application is disposed of in the aforesaid terms.

C.V. BHADANG, J.