IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1568 OF 2020

Kedar Prakash Vanjpe ..Applicant
Versus
The State of Maharashtra ..Respondent

Mr. Aniket Nikam a/w Mr. Piyush Toshnival and Mr. Vivek Arote i/by Mr. Amit Icham a/w Mr. Aashish Satpute, for the Applicant.
Mr. Pravin Chavan, Special PP a/w Ms. A. A. Takalkar, for the Respondent – State.

CORAM : NITIN W. SAMBRE, J.

DATE : 23rd DECEMBER, 2021

P.C.

1. Heard.

2. After arrest on 16th May, 2018 in Crime No.347 of 2017 registered with Shivajinagar Police Station, Pune for the offence punishable under Sections 406, 420, 409, 411, 465, 467, 468, 471, 120B r/w 34 of IPC and Sections 3 and 4 of the MPID Act, the applicant is seeking regular bail.

3. The applicant is son-in-law of one of the Directors. He was Executive Director of "DS Kulkarni Developers Pvt. Ltd." and prior to it, he worked in the capacity of the employee of the said Company. It is alleged that the Directors and executive employees of the said

Company hatched criminal conspiracy by promising heavy returns in the form of interest on deposits, diverted the funds received out of such deposits from the account of the Company to the account of the individuals, like the wife of applicant. The individuals accordingly invested the said amounts in land at Fursungi and sold the same to the aforesaid firm at inflated rates. In the aforesaid background, it is alleged that the applicant is involved in an offence of criminal conspiracy, criminal breach of trust, cheating, forgery and duping the small depositors.

4. It is pointed out by the counsel for the applicant that after rejection of the earlier bail application on 14th January, 2019 supplementary charge-sheet came to be tendered on 8th November, 2019. Other co-accused namely, Hemanti Kulkarni who was the Director and authorized signatory, Anuradha Purandare, Vice-President and authorized signatory were granted bail by this Court. It is claimed that the allegations against these two co-accused are on much higher pedestal (serious) as compared to applicant. It is claimed that aforesaid two accused were instrumental in accepting the deposits from the depositors and actively participated in the transaction of the acquiring land at Fursungi. It is further claimed that even in the complaint proceedings initiated by Enforcement Directorate the applicant is not named as an accused. It is further claimed that even in the investigation carried out by Serious Fraud Investigation Office in January, 2020 applicant's involvement is not noticed. A categorical submission is made that the applicant is not

involved in the act of accepting deposits from the depositors as none of the depositors have named the applicant's active participation. It is claimed that the only role attributed to the applicant is that of facilitating the transaction of buying land at Fursungi. It is in the aforesaid background, the submissions of Mr. Aniket Nikam are the applicant having suffered incarceration for last more than three and half years is required to be released as he has deep roots in the society is available for facing the prosecution.

5. Per contra, Special PP Mr. Pravin Chavan would strenuously oppose the claim and would urge that the applicant's involvement in the act of hatching a criminal conspiracy in the matter of commission of offence can be inferred from the available material. He would further claim that the case of the applicant cannot be treated at par with the other co-accused. As such, according to him, since the applicant is involved in serious economic offence, his application is required to be rejected.

6. Considered submissions.

7. The arrest of the applicant on 16th May, 2018 and the applicant having suffered incarceration for more than three and half years is not in dispute. As far as the invoking of the provisions of MPID Act are concerned, there is hardly any material to infer that the applicant had any time promised higher returns to the depositors and lured them to deposit the amount with the company.

The applicant was Executive Director in 2009 for about nine months, and prior to it, he worked as an employee with the said Company. The only role attributed to the applicant is that of facilitating the transaction of acquiring land at Fursungi. The *modus operandi* of the acquiring said land from the agriculturist in the name of relatives and then transferring the same to the DSKDL company at inflated rates even if considered against the applicant, the investigation has not reflected that the applicant has received any part of ill gotten money. Some parcel of the land at Fursungi though was purchased in the name of applicant's wife, she was already ordered to be released by this Court.

8. As such, case of the applicant can be said to be better placed than that of the other co-accused Anuradha and Hemanti who are already ordered to be released by this Court.

9. For the aforesaid reasons, in my opinion, the applicant deserves to be released on bail.

10. Applicant is directed to be released on bail in Crime No.347 of 2017 registered with Shivajinagar Police Station, Pune for the offence punishable under Sections 406, 420, 409, 411, 465, 467, 468, 471, 120B r/w 34 of IPC and Sections 3 and 4 of the MPID Act on executing P. R. bond of Rs.1,00,000/- with one or more sureties in the like amount.

11. Applicant shall attend the concerned Police Station in first week of English Calendar month.

12. Applicant shall neither influence the witnesses in any manner nor tamper with the evidence.

13. Applicant shall attend the Court regularly unless exempted by the Court below.

14. Applicant shall deposit his Passport with the Court within one week of release and shall not leave Country without prior permission of the Court.

[NITIN W. SAMBRE, J.]