IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2786 OF 2019

Aniket Shivaji Indalkar ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Kuldeep S. Patil i/b Mr. S. M. Patil and Mr. A. S. Raktade for the Applicant

Mr. A. R. Patil, A.P.P for the Respondent–State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 3rd MARCH 2021

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 2 of 2019 registered with the Rabale MIDC Police Station, Navi Mumbai (subsequently transferred to EOW, Unit-I, District Navi Mumbai) for the alleged offences punishable under Sections 409, 420, 465, 467, 471 of the Indian Penal Code; Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act; Sections 3, 4 and 5 of the Prize Chits and Money

Circulation Schemes (Banning) Act and Section 39 of the Maharashtra Money Lending (Regulation) Act.

3 Learned counsel for the applicant submits that the applicant is in custody since 4th January 2019. He submits that a perusal of the affidavit filed by Shri Anand Narayan Shahane, Assistant Police Inspector attached to the Economic Offences Wing, Unit-I, Navi Mumbai, shows that the applicant has paid a commission of Rs. 2,46,73,500/- to the customers and has refunded an amount of Rs. 1,31,16,300/- to some investors. It is also stated in the said affidavit that the documents and data recovered from the applicant's office shows that an amount of Rs. 1,86,60,000/- has been distributed to about 191 customers. It is further stated that about 146 investors have made a grievance that they were cheated and are demanding their amounts back and that the said amount is Rs. 45,71,000/-. Learned counsel for the applicant submits that the applicant is ready to deposit the said amount in the trial Court, without prejudice.

4 Learned A.P.P does not dispute the aforesaid, however, states that after the first charge-sheet was filed (wherein, the amount is mentioned as Rs. 45,71,000/-), 78 more investors have come forward and that the amount has now gone up from Rs. 45,71,000/- to about Rs. 69 lacs odd.

5 Learned counsel for the applicant, on the last date, stated that the applicant was ready to file an affidavit-cum-undertaking to deposit the said amount of Rs. 70,00,000/- within one year, without prejudice to his rights and contentions. Accordingly, the applicant was permitted to file his affidavit-cum-undertaking.

6 Today, learned counsel for the applicant has tendered an affidavit-cum-undertaking of the applicant duly affirmed before the Superintendent, Thane Central Prison. The same is taken on record. In the said affidavit, the applicant has undertaken to deposit an amount of Rs. 70,00,000/- within 1 year from the date of his release on bail i.e. Rs. 35,00,000/- within 6 weeks of his release on bail and the balance Rs. 35,00,000/- within a period of 6 months thereafter. In the said affidavit, the applicant has, in para 3, stated that in the event, he fails to deposit the said amounts, his bail will be liable to be cancelled.

7 A complaint was filed by one Chintaman Nana Gangurde as against the applicant, alleging that between October 2018 and January 2019, the applicant floated a scheme for investors by the name Dnyaneshwar Finance Pvt. Ltd. and the applicant accepted money from

him and several other investors i.e. approximately 2572 investors. It is the prosecution case that the applicant would induce investors to deposit Rs. 30,000/- as security deposit by assuring loan within few days, on processing minimum documents. It appears that about 2572 investors deposited an amount of Rs. 7,50,00,000/-. It is the prosecution case that the investment scheme was floated by the applicant, without any valid license and that the applicant lured investors through advertisements in newspapers and by distributing pamphlets. As the applicant failed to repay the amount, the aforesaid complaint was lodged with the MIDC Rabale Police Station, alleging the aforesaid offences. It appears from the affidavit filed by the Assistant Police Inspector Shri Anand Shahane that the applicant had paid a sum of Rs. 2,46,73,500/- to various persons by way of commission; that the applicant had refunded an amount of Rs. 1,31,16,300/- to some of the investors. It also appears that about 146 investors have made grievance and that the amount is about Rs. 45,71,000/-. As noted earlier, learned A.P.P submits that after charge-sheet was filed, 78 more investors had approached the police and that the amount has now gone upto Rs. 69 lacs odd. Learned A.P.P submits that still more people are coming forward. The applicant is in custody since 4th January 2019.

8 Without going into the merits, having regard to the aforesaid and the affidavit-cum-undertaking filed by the applicant that he is ready to deposit a sum of Rs. 70,00,000/- within one year, in two tranches i.e. Rs. 35,00,000/- within 6 months of his release and the balance Rs. 35,00,000/- within 6 months thereafter, the application is allowed on the following terms and conditions :

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 50,000/- with one or more local solvent sureties in the like amount;

(ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 12:00 noon, till further orders;

(iii) The applicant shall deposit an amount of Rs. 70,00,000/- in the trial Court i.e. Rs. 35,00,000/- within 6 months of his release and the balance Rs. 35,00,000/- within 6 months thereafter;

(iv) The applicant shall deposit his passport, if any, with the Investigating Officer before his release;

(v) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(vi) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

9 The application is accordingly disposed of.

10 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

11 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.