IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO. 637/2020

Parag Vijayrao Bobhate
-VERSUS-
State of Maharashtra.

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri A. K. Bhangde, Advocate with Shri N. P. Singhaniya, Advocate for applicant.
Shri A. M. Deshpande, Addl. Public Prosecutor for non-applicant/State.

CORAM : VINAY JOSHI, J.
CLOSED FOR ORDER : 17.03. 2021
DATE OF PRONOUNCEMENT : 19.03.2021

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. This is a first bail application of accused/applicant namely Parag Vijayrao Bobhate after charge-sheet, who was arrested by the Awdhoot Wadi, Police Station, Yavatmal in Crime No. 1227/2017 relating to the offences punishable under Section 409, 420 read with Section 34 of the Indian Penal Code, Section 3 read with Section 4

of the Maharashtra Protection of Interest of Depositors (In Financial Establishment) Act, 1999 (short 'MPID Act'). The applicant/accused Parag has applied for regular bail during pendency of the investigation, however his bail application was rejected by the Special Court vide order dated 09.03.2020. He made second attempt for bail after filing of charge-sheet, however it was also rejected vide impugned order dated 02.06.2020.

3. Heard learned counsel for the respective parties and gone through the available record.

4. The applicant claimed bail on the ground of innocence, false implication, having no role in the financial embezzlement. He has also claimed bail by invoking the rule of parity. It is submitted that the applicant's name was not mentioned in the First Information Report which was initially against the three co-accused. On the

basis of statement of some of witnesses, he has been falsely roped in the crime and supplementary charge-sheet has been filed. It is contended that, now the Police have completed the investigation hence, his presence is no longer required in the custody. The learned counsel for the applicant pointed out that the statement of several investors, nowhere discloses his particular role in financial irregularites of the Credit Society. The leaned counsel for the applicant submited that some of the witnesses have falsely alleged that applicant has withdrawn the amount of Rs. 21,85,000/- from the Credit Society. According to him, amount has already been credited to the main Branch but due to the technical failure, relevant entries have not been made. It is submitted that main accused Mr. Satish Kale who was the Chairman of the Credit Society has already secured bail. Likewise, another Regional Manager Mr. Diwakar Vaidya against whom there are severe allegations, has also been released on bail.

5. The State resisted bail vide reply-affidavit dated 06.10.2020. The State in its stiff resistance, contended that the applicant along with co-accused had lured several investors by offering higher rate of interest, however the investors' amount has been duped. It is contended that time to time, the applicant has withdrawn the amount by cheque or in cash from the Credit Society. Particularly, the applicant being the Regional Manager has withdrawn the amount of Rs. 16,14,000/- from the Wani Branch and Rs. 5,45,000/- from the Yavatmal which he did not deposit. The State contended that though charge-sheet has been filed, however there is strong evidence against the applicant and if he is released on bail, he would pressurize the prosecution witnesses or tamper with the prosecution evidence.

6. At the instance of report dated 14.11.2017 lodged by one of the investor namely Sagar Mandakmali, the offence was came to be

registered. The informant stated that at the instance of co-accused Diwakar Vaidya, a Regional Manager, he had invested of Rs. 5,00,000/- on assurance of paying higher interest @ 13% per annum on maturity. When the deposit was matured the amount was not refunded. Likewise, the investment of few other persons were also not returned on maturity. The informant stated that there was embezzlement of total amount of Rs. 16,16,500/-. On the basis of said report, initially, the crime was registered against three persons i.e. Chairman of Credit Society – Satish Kale, Regional Manager Diwakar Vaidya and one Rakesh Vinayakrao Gojre. During course of investigation, the statement of one of the Bank employee i.e. Priyanka Shirbhate, who was working as a Manager, has been recorded. She has stated that time and again, applicant and Chairman of the Bank Mr. Satish Kale took several amounts from her Branch in cash or by cheque which were not returned. On the basis of statement of Priyanka and some others, the Police carried further investigation pointing the complicity of applicant on the basis of which he was arrested on 25.11.2019 i.e. after two years from the registration of crime.

7. Learned Additional Public Prosecutor primarily took me through the statement of Priyanka dated 27.12.2017. On material point, she stated that she caused several persons to invest money at the instance of applicant and Chairman. It is her statement that time to time, applicant took money by way of cheque or in cash from her Branch. According to the State, the applicant has not deposited the withdrawn amount of Rs. 21,85,000/- with Credit Society and therefore, he is not entitled for enlargement on bail.

8. So far as the applicant's role is concerned, he is Regional Manager of Chandrapur and Yavatmal Branch. Initial, Police report does not bear any allegation against the applicant. It is the prosecution case that several persons namely

Dilip Gulhane, Suraj Bele, Varsha Turkar, Rina Kawade, Mamta Kawade and Nana Deshmukh etc. have stated about the applicant’s role. Bare perusal of their statement, discloses that allegations were squarely against the another Manager, namely Diwakar Vaidya and others. Besides statement of Priyanka, prima-facie there is no material to indicate that applicant had personally lured investors to deposit money in the Credit Society.

9. It is a matter of record that at different places, crimes were registered against the applicant and other persons concerning to the Credit Society. The Chairman of the Society i.e. Satish Kale who was supposed to be In-charge of the entire affairs of the Credit Society, has been released on bail by the Special Court vide order dated 01.01.2021. Another co-accused namely Gojre who was also working as a Regional Manager of the Credit Society was released on bail by the Special Court vide order dated 19.07.2018.

Moreover, this Court vide order dated 27.02.2019 has enlarged another Regional Manager Diwakar Vaidya on bail. True, Diwakar Vaidya has refunded amount of Rs. 16,16,500/- before the Trial Court which has weighed for his release. Likewise, bail order of Chairman Satish Kale dated 01.01.2021 discloses that he has offered his immovable property towards security as well as deposited Rs. 4,00,00,000/- in the Court.

10. The learned counsel for applicant would submit that applicant has not received any amount from the Credit Society. According to him, the entire amount which was withdrawn from the Branch was deposited with the main Branch. In support of said contention, he has relied on a letter dated 04.08.2017 issued by the Chairman of the Bank in applicant's name stating that the amounts were received by the main Branch, however due to technical failure, relevant entries have not been made. Learned Additional Public Prosecutor strongly objected to this letter by

contending that the letter which was purportedly issued by the co-accused cannot be relied. Pertinent to note that the said letter dated 04.08.2017 was preceding to the First Information Report which was filed on 14.11.2017. At present, besides the statement of Priyanka, there is no other material in the form of vouchers, registers etc. to show that the amount has been withdrawn by applicant in cash. In-fact, during the course of the trial by adducing evidence, the said fact has to be established. The applicant has already been released by the respective Courts in other parallel crimes registered against him. The co-accused including Chairman Satish Kale, has been released in this crime by the Special Court. The record indicates that on the ground of completion of investigation, Chairman Satish Kale was released by the Special Court.

11. In that view of the matter, particularly as the applicant was arrested long back on 25.11.2019 and since the investigation is

completed, no purpose would be served in keeping him in Jail for indefinite period. The entire evidence largely depends upon the documents. The trial will take its own time for disposal in accordance with the law. In view of all these circumstances and also on the ground of parity, the applicant is entitled for bail. Hence, following order:-

I. Application stands allowed.

II. The applicant/accused namely Parag Vijayrao Bobhate is released on bail on his executing P.R. Bond of Rs. 1,00,000/- with one solvent surety in the like amount in connection with Crime No. 1227/2017 registered at Police Station Awdhoot Wadi, Yavatmal for the offences punishable under Sections 409, 420 read with Section 34 of the Indian Penal Code, Section 3 read with Section 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishment) Act, 1999.

III. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

IV. The applicant shall not enter into either of the Branch of the Credit Society till the conclusion of trial.

JUDGE

Gohane.