IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

927 **BAIL APPLICATION NO.66 OF 2022**
WITH APPLN/311/2022

NITIN RAYABHAN BHAVAR
VERSUS
THE STATE OF MAHARASHTRA

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Sr. Advocate for Applicant : Mr. V.D. Sapkal
APP for Respondents/State : Mr. V.S. Badakh
Advocate for Applicant in Appln/311/22 : Mr. Manoj Shinde
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CORAM : M.G. SEWLIKAR, J.
DATE : 27th January, 2022

P.C.:-

This is an application under Section 439 of the Cr.P.C. for releasing the applicant on bail.

2. Facts leading to this application are that the informant Sharad Kisanrao Gawali is an Architect having his office at 103, E-Wing, Kailash Market, Cannaught Place, CIDCO, Aurangabad. The applicant is an Advocate by profession and his office is adjacent to the office of the informant Sharad. The informant and the applicant are friends since last 8-9 years. One Mr. Abhijeet Pansare resident of Nashik is the relative of the applicant. Abhijeet Pansare is a scientist. In the month of July 2016, the applicant represented the informant that the said Abhijeet Pansare has undertaken a big project and

the applicant had invested some amount in the said project and the applicant got good returns from the said Abhijeet Pansare.

3. It is further alleged that in the month of September 2016, the applicant, Abhijeet Pansare, mother and sister of the said Abhijeet Pansare met the informant in his office at Aurangabad. That day, Abhijeet Pansare represented the informant that the said Abhijeet Pansare is running business of electricity production etc. The work of manufacturing Radium Radioactive Coil Reactor is in progress. He further made representation that there is an agreement between the said Abhijeet Pansare and “NASA” i.e. National Aeronautics and Space Administration i.e. U. S. Government Agency. Abhijeet Pansare also showed him some documents such as purchase order No. NAL/08/16/25526 dated 25/08/2016 in favour of M/s Science Kudos for supply of Radium Radioactive Coil Reactor for an amount of Rs.75 Million i.e. Rs. 4,81,12,51,400/- in Indian currency. The said Abhijeet Pansare also represented that for the completion of the said project huge amount was required but the said Abhijeet Pansare was not having the required wherewithal. Several persons have invested in the said project but that amount was not sufficient to meet the expenditure of the said project. The said Abhijeet Pansare also promised the informant that in case informant invested an amount of Rs.2,50,00,000/-, the said Abhijeet Pansare would pay

Rs.25,00,00,000/- within one year. The informant was not having so much amount. But considering the scheme, the informant thought of investing the amount.

4. Accordingly on 20th October, 2016, the informant, his friends / relatives 14 in numbers paid Rs.30,00,000/- in cash to Abhijeet Pansare at Aurangabad. On 21st November, 2016 again the informant, his friends / relatives 16 in number paid an amount of Rs.40,00,000/- to Abhijeet Pansare at Aurangabad. On 05th March, 2017 Abhishek Gujarati and 10 others paid Rs.20,00,000/- to Abhijeet Pansare at Aurangabad. On 6th April, 2017 the informant Sharad Gavali and 14 others paid an amount of Rs.30,00,000/- in cash to Abhijeet Pansare. On 18th June, 2017, the informant and 22 others paid an amount of Rs.50,00,000/- to Abhijeet Pansare at Aurangabad. On 10th August, 2017, the informant Sharad Gavali and 18 others paid an amount of Rs.40,00,000/- to Abhijeet Pansare at Aurangabad. On 12th December, 2017 the informant and 18 others paid an amount of Rs.40,00,000/- in cash to Abhijeet Pansare at Aurangabad. While making all these payments, the applicant was with Abhijeet Pansare.

5. It is further alleged that after completion of one year of initial investment, the informant Sharad Gavali demanded the returns on his investment on 20th October, 2017. However, in spite of repeated demands,

neither Abhijeet Pansare nor the applicant paid any amount with regard to the investments made by Sharad Gavali, his friends / relatives. Lastly, Abhijeet Pansare on 14th November, 2017 issued five cheques of Rs.50,00,000/- each drawn on HDFC Bank, Nashik, but those cheques were returned dishonoured. Again on 31st March, 2018 Abhijeet Pansare issued six cheques of Rs.50,00,000/- each in favour of the informant Sharad Gavali but those were also dishonoured. Therefore, on 23rd July, 2018 the informant issued legal notice for demand of money to Abhijeet Pansare. On 31st August, 2018 a notarized agreement was executed between Abhijeet Pansare and the informant Sharad, wherein Abhijeet Pansare admitted responsibility to pay the amount. Thereafter, on 21st September, 2018, Abhijeet Pansare issued another four cheques of Rs.80,00,000/- each in favour of the informant Sharad, but those were also dishonoured. Therefore, again on 28th December, 2018 Abhijeet Pansare issued cheque of Rs.50,00,000/- in favour of the informant, but the same was also dishonoured. Again on 26th February, 2019 notarized document was executed between Abhijeet Pansare and the informant Sharad, wherein Abhijeet Pansare admitted his responsibility to pay the amount. On 26th February, 2019, Abhijeet Pansare issued three cheques of Rs.3,20,00,000/- in favour of the informant Sharad but those were also dishonoured. Therefore, the informant Sharad realized that Abhijeet Pansare had cheated him and others and the applicant was also involved in the same. On these allegations, FIR was lodged in the CIDCO Police Station, Aurangabad on 09th January, 2020, on the basis of which, offence punishable under Sections 406, 420, 467, 468, 120(B) read with 34 of the I.P.C. and under Section 3 and 4 of the M.P.I.D. Act has been registered.

6. Heard learned senior counsel Shri Sapkal for the applicant, Shri Badakh learned APP for the State and Shri Shinde learned counsel for the informant assisting the APP.

7. Learned senior counsel Shri Sapkal submits that the applicant himself is cheated by accused no.1-Abhijeet Pansare. He further submits that applicant himself had transferred Rs.30,00,000/- to accused-Abhijeet Pansare. Applicant played the role of introducing the informant and other witnesses to Abhijeet Pansare. Because of introduction of applicant of the witnesses with Abhijeet Pansare, those witnesses and the informant deposited the amount with Abhijeet Pansare. He submits that applicant did not accept any amount from the witnesses. He submits that the applicant has filed application under Section 482 of the Cr.P.C. for quashing of the FIR against him. In the said proceedings informant has filed affidavit contending therein that informant himself has been cheated and he has no grievance against applicant now. He submits that other witnesses also have filed affidavits in those proceedings repeating the same statements. He submits that the applicant has transferred

a flat in the name of the informant as the informant was cheated by the accused-Abhijeet Pansare and the applicant was the person who had introduced the informant to Abhijeet Pansare. Taking moral responsibilities, the applicant transferred flat at Cidco, Aurangabad.

8. Learned APP Shri Badakh submits that there is evidence against the applicant. Applicant himself introduced informant to Abhijeet Pansare. He submits that applicant had transferred amount of Rs.28,00,000/- and odd to the account of Abhijeet Pansare. Shri Sapkal submits that applicant is behind the bars since more than one year i.e. since November-2020. He submits that having regard to the allegations made and the evidence collected by the prosecution applicant may not be released on bail.

9. Learned counsel Shri Shinde submits that settlement talks were going on. He admits that the affidavit as argued by Shri Sapkal learned senior counsel for the applicant has been filed in the proceedings under Section 482 of the Cr.P.C. for quashing of the FIR.

10. Applicant is accused of offence under Section 406, 420, 467, 468, 471, 120-B, 171 read with Section 34 of the I.P.C. and under Section 3 and 4 of the MPID Act. The allegations in the charge-sheet do not show that the applicant is responsible for the forgery. The allegations are with respect to

cheating the informant and other witnesses. Offence under Section 420 is punishable with imprisonment for seven years. Offence under Section 406 is punishable with imprisonment for three years. Applicant is behind the bars for more than one year. Charge-sheet is filed. Applicant himself is an Advocate. He is not likely to flee from justice. In this view of the matter, I am inclined to release the applicant on bail. Hence the following order is passed:

ORDER

I) Application is allowed.

II) Applicant be released on PR bond of Rs.30,000/- with one solvent surety in the like amount, in connection with Crime No.18 of 2020 under Section 406, 420, 467, 468, 471, 120-B, 171 read with Section 34 of the I.P.C. and under Section 3 and 4 of MPID Act with Cidco Police Station, District Aurangabad on condition that he shall not tamper the prosecution evidence.

III) Application for assist to APP is also disposed of.

IV) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]

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