IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.106 OF 2022

PRAVIN DADARAO SHEKOKAR

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. H.F. Pawar, Advocate for the applicant

Mr. V.M. Kagne, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 16th FEBRUARY, 2022

PRONOUNCED ON : 06th APRIL, 2022

ORDER :

1 The applicant is apprehending his arrest in connection with Crime No.507/2021 dated 27.12.2021 registered with Mukundwadi Police Station, Dist. Aurangabad, for the offence punishable under Section 420, 406 of the Indian Penal Code, 1860 and under Section 3, 4 of the Maharashtra Protection of Interest Depositors Act, 1999.

2 Heard learned Advocate Mr. H.F. Pawar for the applicant and learned APP Mr. V.M. Kagne for the respondent.

3 The learned Advocate for the applicant has vehemently submitted that from the First Information Report we could gather that the present applicant had given promises and had taken money from various persons, but in fact, the transaction appears to be hand loan and no such promises were given. The provisions of the Maharashtra Protection of Interest Depositors Act could not have been invoked. The First Information does not show that there is any allurement at the hands of the applicant. The entire story in the First Information Report is false and concocted. The applicant is admitting that some amount was taken by him, but it can be seen that all the transactions were online transactions. If he had the intention to cheat, he would not have entered into such kind of transaction. The informant has received total cash amount of Rs.29,84,895/- and no amount is remaining to be repaid by the applicant to the informant. It appears that still the informant is greedy and want some more amount. In fact, prior to the lodging of the First Information Report the applicant had informed the Economic Crime Branch on 29.11.2021 about the dispute through his written statement and the documents were placed by him before the concerned department. Still no action was taken against the applicant, but then by keeping him in dark the First Information Report was allowed to be registered against the applicant. The applicant has filed a complaint for defamation against the informant and others. The First Information Report is

the outcome of the revenge thoughts in the mind of the informant. Now, the Investigating Officer has freezed the account of the applicant and his passbook is also with the police. The applicant is ready to pay whatever amount is remaining and since the investigation depends upon the documents, he is ready to co-operate with the investigation.

4 The learned APP has strongly opposed the application and submitted that by making promise to give high returns, the applicant was attracting people in general. He used to send different plans on the mobile of the customers and he has accepted amount from those people amounting to Rs.52,000/-, Rs.12,000/-, Rs.2,04,000/- etc. When it came to be returned the amount, it was only by way of Rs.1,800/-, Rs.3,600/- and Rs.7,200/-. In order to gain confidence he has given that much amount only in the account of those persons. But thereafter he stopped. Cheque of Rs.49,12,000/- was also issued by him, but no returns as promised were given. In fact, he has no such licence to accept deposits and return that from such a huge gathering of people. Another offence vide Crime No.387/2017 has been registered against the applicant and his wife under Section 403, 406, 418, 420, 467, 468, 506 of the Indian Penal Code with Nandurbar City Police Station. The applicant has received those amounts with different names i.e. Global Sales and Services, P.S. Fruit Company and Three Apple Foods Solution.

Documents in respect of these companies' order forms are required to be seized. The applicant is absconding and possibility of commission of similar crime in future cannot be ruled out.

5 At the outset, it can be seen that the offence in question is an economic offence. Though the applicant is accepting that he has received certain amount from the informant and others, according to him, it is friendly loan. However, the documents, which have been collected, especially the WhatsApp chats would show a different picture and prima facie there is evidence that he was soliciting investment by giving high returns. It is not only the informant but the statements of other witnesses, who had extended amount to the applicant, have stated the same thing. The statements of accounts of various persons have been recorded which show that the applicant has received huge amount in lacs from those different persons. It cannot be said that from all of them he had taken hand loan. He has intentionally not explained as to what kind of business he is carrying out. His readiness to pay remaining amount is with the condition that when his account is defreezed, he would return the amount. The applicant cannot put such kind of condition to the Court. If he had taken the amount and has desire to return that amount, he is at liberty, but then, his account cannot be allowed to be operated. It can be seen that it was the hard earned money of

the people, which was handed over to the applicant. No doubt, informant and others also have made mistake. Time and again, the Government as well as the Reserve Bank of India and even other Banks are issuing public awareness that they should not invest their money in such companies, who are not fulfilling the basic criteria and have not been registered, but certainly the applicant cannot get advantage of his own acts.

6 This is a serious economic offence and, therefore, in **State of Gujrat vs. Mohanlal Jitamalji Porwal and another, (1987) 2 SCC 364**, following observations have been made :

> "5. ….The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest….."

6.1 Further, in **Y.S. Jagan Mohan Reddy vs. Central Bureau of Investigation, (2013) 7 SCC 439** following observations have been made :

"34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations."

Both these cases have been considered in P**. Chidambaram vs. Directorate of Enforcement, (2019) 9 SCC 24**.

7 Thus, taking into consideration this legal position, this is not a fit case, where the discretionary extraordinary relief should be granted to the applicant. Application stands rejected.

(Smt. Vibha Kankanwadi, J.)

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