IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 766 OF 2021

Sudhakar S/o Bhanudas Pandhawale   Applicant

Versus

The State of Maharashtra   Respondent

Mr. P. P. More, Advocate for the applicant.
Mr. V. S. Badakh, APP for respondent/State.

CORAM : M.G. Sewlikar, J.

DATE : 22nd FEBRUARY, 2022.

PER COURT :

1. Heard.

2. By this application, the applicant is seeking his enlargement on bail in connection with Crime No. 0108/2019 registered with Shirur Anantpal Police Station, Latur, for the offences punishable under Sections 420, 406, 409 read with Section 34 of the Indian Penal Code and under Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

3. Prosecution case in brief is that one Ravindra Maharudra Kodi is the co-brother of the informant i.e. husband of sister of wife of the informant. He made representation to the informant that the applicant, Arjun Lahudas Ture, Govind Sambhaji Munde and Jeevan Munde had started a company named and styled as "Sant Dnyaneshwar Home Appliances Pvt. Ltd". Through this company, the applicant and other persons are running a scheme. The salient features of the scheme were that the duration of the scheme was for 15 months and of 15 installments. At the time of each installment, three gifts articles would be given and at the time of 15th installment, there would be gift articles in the form of seven motorcycles. They represented that this company is a Government recognised company and said Ravindra Maharudra Kodi is a partner in the said company. In this manner, the informant was induced to invest in the scheme. The informant along with 13 other persons became members of the scheme. Applicant collected money from these people and deposited it in the account of Ravindra Maharudra Kodi.

4. It is further alleged that on 8th February, 2016, at the instance of Ravindra Maharudra Kodi, informant deposited amount of Rs.25,000/- in the account of Nitin Pandurang Chothe. On 12th

February, 2018, the informant paid an amount of Rs. 70,000/- to the applicant and Ravindra Maharudra Kodi. Both of them passed a receipt also. In the lucky draw drawn on 28th February, 2016, gift articles i.e. Hero Passion motorcycle was given to Rameshawar Jambhale, Member No. 973. Similarly, motorcycles and refrigerators were also given to other members. The informant has deposited amount of Rs.11,00,000/- to Rs. 12,00,000/- in the account of Sant Dnyaneshwar Home Appliances Pvt. Ltd., bearing No. 60263500085. It is further alleged that the other members deposited amount of Rs. 8,24,400/- in the account of Sant Dnyaneshawar Home Appliances Pvt. Ltd. and out of the said amount, the applicant and other accused purchased tenament No. 20 in Arunoday Market, Parli Vaijinath, Dist. Beed, in the name of Govind Sambhaji Munde. After completion of period of 15 months and 15 intallments, the members who did not receive gift articles started demanding the same. The officers of the company started giving evasive replies. On these allegations, First Information Report came to be registered against the applicant under the aforesaid sections.

5. Heard Shri More, learned counsel for the applicant and Shri Badakh, learned APP for the State.

6. Learned counsel Shri More submits that Govind Sambhaji Munde has not only cheated the investors but he has cheated the applicant too. He submits that in the First Information Report itself, the number of account is mentioned and in that account, amount has been deposited by the investors. This account does not belong to Sant Dnyaneshwar Home Appliances Pvt. Ltd., run by the applicant and other directors. He submits that this account is opened by Govind Sambhaji Munde showing himself as a Proprietor. Applicant has no concern with this account. He submits that Govind Sambhaji Munde, by using his name and mussel power, avoided his arrest and recently, he has been arrested. He submits that there is mention of a plot having been purchased in the name of Govind Sambhaji Munde by the applicant and other directors out of the funds of the investors. However, the prosecution could not collect any evidence in that regard. He, therefore, seeks release of the applicant on bail.

7. Learned APP Shri Badakh submits that the amount has been invested by the members in cash also. Applicant and other directors had made promises with no intention to fulfill the same. He

further submits that the account opened in the Bank of Maharashtra is also operated by the applicant. Therefore, the applicant cannot evade his responsibility. The applicant is now trying to thrust the blame on accused Govind Sambhaji Munde. He submits that he has come up with this story for the first time in the bail application. If he had made the Investigating Officer aware of this position, the investigation could have proceeded in that direction. Now, charge-sheet is filed and such defence is not available to him at this stage.

8. In the First Information Report, the informant has alleged that he had deposited amount of Rs. 11,00,000/- to Rs.12,00,000/- in the account No. 60263500085 maintained in Bank of Maharashtra, Parli Vaijinath Branch. However, on perusal of the charge-sheet, it is seen that Sant Dnyaneshwar Home Appliances Pvt. Ltd., has an account in Baliraj Multi-State Co-operative Credit Society, Parli Vaijinath and account No. is C/A17. The account No. mentioned in the First Information Report does not pertain to Sant Dnyaneshwar Home Appliances Pvt. Ltd. The account No. mentioned in the First Information Report is 60263500085 maintained in Bank of Maharashtra, Parli Vaijinath Branch. The applicant has produced details of said account which show that it is in the name of Sant

Dnyaneshwar Home Appliances. The words 'Pvt. Ltd.' do not appear. Accused Govind Sambhaji Munde is shown to be the Proprietor of Sant Dnyaneshwar Home Appliances. Thus, *prima facie*, it appears that Sant Dnyaneshwar Home Appliances Pvt. Ltd., and Sant Dnyaneshwar Home Appliances are not the same entities, but are different entities. Therefore, from the evidence collected by the prosecution, it appears that the amount collected by the informant was deposited in the account maintained in Bank of Maharashtra by Govind Sambhaji Munde in the name of Sant Dnyaneshwar Home Appliances.

9. It is not the case of the prosecution that the promises were not kept at all. It is the case of the prosecution that gift articles were distributed to some people. Thereafter, the applicant and other directors stopped giving gift articles. The record collected by prosecution shows that the amount collected from the members was deposited not in the account of the company but in the account opened by Govind Sambhaji Munde. In this view of the matter, I am inclined to release the applicant. Applicant is behind the bars for more than two years i.e. from 26th December, 2019. There is no justification in keeping the applicant behind the bars for an indefinite

period. Charge could not be framed as accused Govind Sambhaji Munde was absconding. He has been arrested recently. Moreover, there is no record to show that Plot No. 20 in Arunoday Market was purchased out of the funds of the investors. Learned APP fairly conceded that the Investigating Officer tried to collect the details of the records from the office of the Registrar. However, the Investigating Officer did not get any record in this respect.

10. On the conspectus of the entire evidence, I am inclined to release the applicant on bail. Hence the following order :-

ORDER

i) Application is allowed.

ii) Applicant be released on PR Bond of Rs.1,00,000/- (Rs.One Lac) with one solvent surety in the like amount in connection with Crime No. 0108/2019 registered with Shirur Anantpal Police Station, Latur, for the offences punishable under Sections 420, 406, 409 read with Section 34 of the Indian Penal Code and under Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999, on condition that he shall not pressurise the witnesses, shall not leave the country without permission of the concerned Court.

iii) He shall deposit his passport, if any, with the concerned police station.

iv) He shall also give his mobile No. to the concerned police station. If he changes his mobile No., the changed mobile No. should also be given tot he concerned police station.

vi) Application stands disposed of.

vii) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M. G. SEWLIKAR)
Judge

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