

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.821 OF 2022

Mr. Bhausahab s/o. Chhabu Chavan,
 Age 55 years, Occu. Business,
 R/o. Row House No.1 and 2,
 Anandvihar Sankul, Bhagwati Nagar,
 Near Tamboli Nagar, Hirawadi,
 Panchavati Nashik .. Applicant

Versus

The State of Maharashtra
 Through Police Inspector,
 Jawahar Nagar Police Station,
 Aurangabad. .. Respondent

Mr. S. T. Pandey, Advocate along with Mr. Shaikh Kayyum Najir,
 Advocate for Applicant;
 Mr. A. A. Jagatkar and Mr. K. S. Patil, A.P.P.s for Respondent/State

...
AND / WITH

929 BAIL APPLICATION NO.823 OF 2022
 930 BAIL APPLICATION NO.866 OF 2022
 931 BAIL APPLICATION NO.1252 OF 2022
 932 BAIL APPLICATION NO.1253 OF 2022
 933 BAIL APPLICATION NO.1254 OF 2022
 934 BAIL APPLICATION NO.1348 OF 2022
 935 BAIL APPLICATION NO.1349 OF 2022
 936 BAIL APPLICATION NO.1350 OF 2022
 937 BAIL APPLICATION NO.1351 OF 2022
 938 BAIL APPLICATION NO.1352 OF 2022
 939 BAIL APPLICATION NO.1353 OF 2022
 940 BAIL APPLICATION NO.1454 OF 2022
 941 BAIL APPLICATION NO.1455 OF 2022
 942 BAIL APPLICATION NO.1551 OF 2022

CORAM : S. G. MEHARE, J.

Reserved on : 25-11-2022

Pronounced on : 21-12-2022

ORDER

1. The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in the bunch of these bail applications.

2. The learned counsel for the applicant would submit that the applicant is behind bar for more than six years. The applicant has been mainly charged for the offence punishable under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (for short, "MPID Act"). The maximum punishment for the said offence is six years. The applicant has served almost full sentence in the jail for the principal offence allegedly committed under the MPID Act. He has also undergone the detention from more than half of the maximum punishment of seven years for the offence punishable under Section 420 of the Indian Penal Code. The properties of the company of which the applicant was the Director have been attached by the prosecution under the MPID Act. The chargesheets have been filed. He was admitted to Civil Hospital more than twice. The entire investigation was based upon the documents. Therefore, further detention of the applicant is not warranted. There is no likelihood of the applicant to tamper with the evidence and flee away from the justice. The offence is not punishable with imprisonment for life or death. Hence, he may be granted bail.

3. The learned counsel for the applicant relied upon the ratio laid down by this Court in the case of ***Vinay Prabhakar Phadnis Vs. State of Maharashtra, Special MPID Case No. 09 of 2017***, as well as in the case of ***Vivek Kumar Versus State of U.P., 2000(9) SCC 443***.

4. The learned A.P.P. has strongly opposed the application. He would submit that the applicant has also been charged for the offence punishable under Section 467 of the I.P.C., that provides imprisonment for life or either description for a term which may extend to ten years. A huge amount has been misappropriated and around 3000 investors have been duped. The Honourable Supreme Court also refused the bail on merit. The care of heart ailment has been taken. The offence is grave. In most of the cases, the trial has commenced. All the grounds were raised in the earlier bail applications. There is no change in the circumstances.

5. The bail applications of the applicant on merit have been rejected by the Honourable Supreme Court. It is not in dispute that the applicant is languishing in jail for about seven years.

6. In the case of **Vinay Prabhakar Phadnis** (*supra*), the accused was facing trial for the offence punishable under Section 420 of the Indian Penal Code. Therefore, this Court, considering the length of his detention in jail, held that the accused had undergone the detention for a period upto one half of the maximum punishment provided for the offence punishable under Section 420 of the Indian Penal Code.

7. As far as the ratio laid by the Honourable Supreme Court, in the case of **Vivek Kumar** (*supra*), the accused was facing trial for the offence punishable under Section 394 and 395 read with Section 149 of the Indian Penal Code. Considering the length of his detention, the Honourable Supreme Court was pleased to release the accused on bail.

8. In the case of **Union of India Versus K. A. Najeed, (2021) 3 Supreme Court Cases 713**, the accused was facing trial under the provisions of Unlawful Activities (Prevention) Act, 1967. The bail was granted to the accused on the ground that there was unlikelihood of the trial being completed anytime soon.

9. The learned A.P.P. has made statement that in most of the cases, trials have been commenced.

10. The applicant has been charged for the offences punishable under the MPID Act as well as Sections 420, 406, 423, 424, 467, 471, 465 read with Sections 34 and 120B of the Indian Penal Code. It has been alleged against the applicant that he induced the investors under the pretext to return their money upto three to four times of the investment. However, the applicant did not return money as promised. Considering the allegations levelled against the applicant, it can be gathered that since inception the

applicant had dishonest intention to dupe the public at large. To put his intention into the action, a company has been established knowing well that the return, they promised was practically impossible. The applicant must be aware of the market and rotation of the money. He must have the knowledge of economics that such huge return in a short period, was a dream and quite impossible. If the charges levelled against the applicant are viewed from the intention of the applicant since inception, it would be difficult to accept the contention that the main charge is under the MPID Act.

11. As far as considering the case laws relied upon by the applicant claiming the bail on the length of the detention of the applicant, sections applied having maximum period would be considered. Section 467 of the Indian Penal Code has been applied against the applicant which provides punishment with imprisonment for life or either of description for a term which may extend to ten years. It has been alleged against the applicant that, he and his company duped the investors for Rs.22 Crores. The investors have suffered the huge financial loss. It is an economic offence. It has impact on the nation's economy. It would be viewed differently. In view of the position of law and the allegations levelled against the applicant, the court is not convinced that the applicant is entitled to bail on the length of his detention in jail. That apart, there are no change in circumstances.

12. As far as the ill-health of the applicant is considered, the care has been taken by the concerned authority. There are no recent reports that he needs an attendant to take his care. Therefore, the Court is not satisfied that he has a good case for bail on his ill-health.

13. For the above reasons, all the applications stand dismissed.

(S. G. MEHARE)
JUDGE

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