

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**BAIL APPLICATION NO.738 OF 2022
WITH
CRIMINAL APPLICATION NO.2657 OF 2022**

Bhaiyyasaheb Yashwant Gujela,
Age-43 years, Occupation-Agent,
R/o-House No.1/B, Aniruddha Nagar,
Mahindale Shivar, Sakri Road, Dhule

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...

Mr. Joydeep Chatterji Advocate for Applicant in Bail
Application No.738 of 2022.
Mr. A.M. Phule, A.P.P. for Respondent-State.
Mr. Anudeep D. Sonar Advocate for Applicant in Criminal
Application No.2657 of 2022 for assist to A.P.P.

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CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 18th AUGUST, 2022

ORDER :

1. Criminal Application No.2657 of 2022 moved for assist to APP stands allowed and disposed of.
2. Present applicant has been arrested on 23rd October 2020, in connection with Crime No.59 of 2020 (67/2020) by Dhule

Taluka Police Station, District-Dhule, for the offences punishable under Sections 406, 409, 420, 120-B, 467, 468 of the Indian Penal Code, 1860, under Sections 3, 4, 5 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 and under Sections 3, 4, 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. Apart from him, there are about five accused persons involved in the offence. Applicant has filed present Application under Section 439 of the Code of Criminal Procedure.

3. Heard learned Advocate Mr. Joydeep Chatterji for the applicant, learned APP Mr. Phule for the respondent – State and learned Advocate Mr. Sonar assisting the APP.

4. It will not be out of place to mention here that the applicant had earlier approached this Court by filing Bail Application No.261 of 2021 and the said application came to be rejected on 8th June 2021. Thereafter again the applicant approached the learned Special Judge under M.P.I.D. Act by filing application for bail at Exhibit-10 in Special Case No.9 of 2021, which came to be rejected on 15th March 2022. Now, again the

applicant has filed this Application contending that there is no progress in the trial.

5. Learned Advocate appearing for the applicant has submitted that he would rely on three-Judge Bench decision in ***Union of India vs. K.A. Najeeb, 2021(3) SCC 713***, wherein the Hon'ble Apex Court considered the long incarceration of the accused and taking into consideration the speedy justice as a constitutional right, held that the applicant therein should be released on bail. Learned Advocate for the applicant then stated that in one more First Information Report vide Crime No.52 of 2021 registered against the applicant at Pimpalner Police Station, District-Dhule under identical Sections, the applicant has been granted bail by the learned Sessions Judge, Dhule.

6. Learned Advocate for the applicant has also relied on the decision in ***Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya vs. National Investigation Agency (Criminal Appeal No.1525 of 2021, dated 1st December 2021)***, wherein the Hon'ble Apex Court, considering the age of the applicant therein as 74 years and 298 prosecution witnesses to

be examined, had granted bail. Learned Advocate for the applicant has submitted that here also the present applicant is in jail since 24th October 2020 and the charge-sheet came to be filed prior to that i.e. on 12th May 2020, however, in view of no progress in the trial, the applicant seeks bail.

7. Learned APP, well assisted by learned Advocate Mr. Sonar for the informant, who has filed separate application for assist to APP, strongly opposed the Application and submitted that when a detailed order has been passed by this Court while rejecting the earlier bail application filed by the applicant, present Application is not maintainable and deserves to be rejected on the same grounds. The decisions relied upon by the learned Advocate for the applicant are not applicable to the facts of the present case, since the fact that is required to be considered is that the applicant was absconding and though the charge-sheet came to be filed, he has been arrested later on. The misappropriation is to the tune of Rs.10,29,41,956/- and there are about more than 1000 depositors. It was the public money that was misappropriated and therefore the applicant does not deserve any sympathy.

8. At the outset, it is to be said that the reasons given by this Court while rejecting the earlier bail application on 8th June 2021 are reiterated. There is no change in the circumstance which could be noted by this Court. When huge public money has been misappropriated and it can be seen from the charge-sheet that the applicant was absconding when it came to be filed before the learned Special Judge under the M.P.I.D. Act, the applicant deserves no sympathy.

9. Accordingly, the Application stands rejected.

[SMT. VIBHA KANKANWADI , J.]