IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1838 OF 2022

SHASHANK JAGANNATH KADAM
VERSUS
THE STATE OF MAHARASHTRA
...
Advocate for Applicant : Mr. Atmaram J. Patil
APP for Respondent : Ms. V. S. Choudhari
...

CORAM : S. G. MEHARE, J.

DATE : 08-12-2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.

2. The applicant has been arraigned as an accused in the crime being a director of one of the companies which have allegedly fraudulently denied to return the deposit with benefit. The applicant has been arrested on 09.04.2022. Since then, he is behind bar.

3. The learned counsel for the applicant would submit that the applicant was a Director limited to five percent share in only one company. He never participated in the business and the transaction. He had just invested the amount. He is a resident of Pune. The company was running at Bhusawal. The another co-

accused have cheated the applicant under promise to get the high returns of his investment. Since he got suspicion, immediately in the year 2016 i.e. on 04.06.2016, he resigned as a Director of the said company. His resignation was also accepted. He produced relevant documents to buttress his arguments. The police have raided the house, but nothing was found. The applicant is not the beneficiary. He has not purchased the property nor invested the money received from the profit of the money of the investors in the company. In absence of any strong evidence, he has been arraigned as an accused. The material investigation is completed against him. He is the sole bread winner of his family. He is ready to co-operate with the investigation if any in future. Hence, he may be granted bail.

He relied on the case of - *(i) Sanjay s/o. Anilkumar Choudhari Versus State of Maharashtra, 2022(4) Mh.L.J. (Cri.) 434, and (ii) Parag Vijayrao Bobhate Versus State of Maharashtra, 2021(5) Mh.L.J. (Cri.) 70*.

4. The learned A.P.P. has strongly opposed the application. She would argue that the applicant has given his KYC to the bank for the purpose of the company in which he was a Director. The so-called company was not duly registered. The object of the so-called company was different much less not to run the financial establishment, but the applicant and another co-accused fraudulently collected the huge amount around Rs.4 Crore and

denied to return the amount as promised. The offence is serious. Hence, he may not be granted bail.

5. *Prima facie* it appears that the applicant was the Director of one company, however, he has resigned on 04.06.2016. The offence has been registered in the year 2022. Whether the accounts were settled after his resignation is the matter of investigation in future. The police did not find any property purchased by him from the money, he has allegedly received from the company.

6. In the case of *Parag Vijayrao Bobhate* (*supra*), it has been held by this Court that the entire evidence largely depends upon the documents. The applicant was arrested long back and since the investigation is completed, no purpose would be served by keeping him in jail for indefinite period.

7. In the case of *Sanjay s/o. Anilkumar Choudhari* (*supra*), it has been observed that the applicant had already resigned as Director of the company. Applicant was arraigned as an accused only on the ground that he was Director of the company.

8. Perusal of the papers reveals that the thorough investigation against the applicant has been conducted. No property was found purchased by the applicant from the so-called siphoned money. The applicant is languishing in jail since the month of April 2022.

The chargesheet has been filed. Four accused are yet not arrested. The role attributed to the applicant seems limited. In a short period, he had resigned as a Director. Considering completion of the investigation, it would be inappropriate to keep him behind bar. In that view of the matter, the application may be allowed. Hence, the order :-

i) The application is allowed.

ii) Applicant - Shashank Jagannath Kadam, be released on bail, on furnishing PB and SB of Rs.2,00,000/-, with one or two solvent sureties of the like amount, in C.R.No.221 of 2022 registered with Bazar Peth Police Station, District Bhusawal, Taluka Bhusawal, District Jalgaon, for the offence punishable under Sections 409, 420, 468, 465, 467, 471, 120B, 201 read with Section 34 of the Indian Penal Code and Sections 3, 4(2) of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, on the conditions that;

(a) He shall not tamper with the prosecution witnesses.
(b) He shall not support the absconding accused in any way.
(c) He shall not alienate the property standing in his name till conclusion of the trial.

(S. G. MEHARE)
JUDGE

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