IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 262 OF 2021

Jitendra Mansingh Patil ..Applicant
Vs.
The State of Maharashtra ..Respondent

WITH
INTERVENTION APPLICATION NO. 951 OF 2021

Sandeep Shivaji Patil and Ors. ..Interveners.

In the matter between:
Jitendra Mansingh Patil ..Applicant
Vs.
The State of Maharashtra ..Respondent

Mr. Tapan Thatte, for the Applicant.
Mr. Y. Y. Dabke, APP for the Respondent / State.
Ms. Rui Danawala i/b. Umesh R. Mankapure, for the Intervener.

CORAM : C.V. BHADANG, J.
RESERVED ON : 24 FEBRUARY 2022
PRONOUNCED ON : 18 APRIL 2022

P.C.

. This application was initially filed by the Applicants Mansingh Patil and Jitendra Patil, seeking bail in Crime No. 68 of 2020 registered with Islampur Police Station, Sangli, which is subsequently transferred to Economic Offence Wing (EOW), Sangli. On 27.01.2021, this application was not pressed insofar as Applicant No.1 Mansingh Patil is concerned. Thus, the application survives only in respect of the Applicant Jitendra Patil.

2. The aforesaid crime is registered on the basis of the complaint dated 29.01.2020 lodged by Sandeep Shivaji Patil. According to the informant, the Applicant along with his father Mansingh Patil and brother Snehalkumar Patil had induced him to invest in Universal Beverages, which is a proprietorship firm of accused Snehalkumar Patil and is engaged in the business of packaged drinking water. He claims that the Applicant and the co-accused had assured returns at the rate of 24% per annum, on the investment amount. Accordingly, the informant had invested various amounts from 13.03.2018 to 29.01.2020. However, the amount has not been repaid with the assured returns and thereby, the Applicant and the co-accused have cheated the informant and committed misappropriation of an amount of Rs.14,68,000/-.

3. On the basis of such a complaint, an offence came to be registered. During the course of the investigation, it was revealed that there were about 164 other investors, who had also made investments in Universal Beverages and the total amount of misappropriation involved is Rs.4,88,22,200/-.

4. In this case, after investigation, a chargesheet is filed on 18.08.2020 before the Special Court (MPID), which is registered as Special Case No. 26 of 2020.

5. The Special Court has refused to release the Applicant on bail. Hence, this application.

6. I have heard the learned counsel for the Applicant and the learned APP. With the assistance of the learned counsel for the parties, I have gone through the record.

7. It is submitted that the Applicant has no concern with Universal Beverages, which is a proprietorship firm of the co-accused Snehalkumar Patil. It is submitted that the Applicant is also not concerned with *Maruti Tatya Bigar Sheti Patsanstha* ('the Credit Society' for short). It is submitted that the default, if any, in repayment of the principal with interest, is by Universal Beverages and not by the Applicant. The learned counsel pointed out that the Applicant is not shown to be the beneficiary of any such transactions, which is apparent from the Bank Statements. It is submitted that except an amount of Rs.22,00,000/- which is transferred in the account of Applicant on 23.05.2019 from his father Manshingh Patil, there is no other amount received by the Applicant. The learned counsel was at pains to point out that the

said amount of Rs.22,00,000/- was out of maturity proceeds of 34 term deposits in the name of his father which matured on 22.05.2019 and a total amount of Rs.22,60,092/- was received by his father. In short, it is contended that the said amount of Rs.22,00,000/- has no concern with the investments made by the informant or others, in Universal Beverages. It is pointed out that during the investigation, it was revealed that the Applicant was not exercising any control, over the functioning of Universal Beverages. He submitted that the name of the Applicant was subsequently, introduced on the basis of the statement of some of the witnesses. He pointed out that there is an attempt to implicate the Applicant, being the close relative of the co-accused although, he has no concern with Universal Beverages or the Credit Society.

8. The learned APP assisted by the learned counsel for the intervenor has submitted that the Applicant was acting along with his father and brother Snehalkumar Patil, who is the proprietor of Universal Beverages. It is submitted that there are statements of witnesses showing that the Applicant was party to the inducement made to the informant and the other depositors persuading them to make such investment and assuring returns. The learned APP pointed out that there was an attempt to show that the said firm was having a deposit of Rs.20 crores with Union Bank of India, Daru Khana Branch, Mumbai, which upon inquiry with the said Bank was

found to be fake. The learned APP has pointed out the statement of witness Ghansham Sharma, who stated that the Applicant along with co-accused had shown him the said deposit receipt asking for a loan of Rs.10 crores. It is submitted that a proposal for attachment of property under Section 4 and 8 of MPID Act, is pending before the Competent Authority and there is possibility of misuse of bail, if granted.

9. I have considered the submissions made. Indisputably, the Applicant is not the proprietor of Universal Beverages. The prosecution case as disclosed from the chargesheet also does not show that the Applicant is concerned with the said Credit Society, inasmuch as paragraph 17 of the chargesheet shows that the accused Mansingh Patil is the founder and Ex-Chairman of the said Credit Society, while Snehalkumar Patil is the Chairman of the said Credit society. The allegation is that the investors in the said Credit Society were induced to invest in Universal Beverages on maturity of their investments in the said Credit Society. It can thus be seen that atleast prima facie the prosecution does not claim that the Applicant was concerned with the said Credit Society. The deposit receipts are not signed by or on behalf of the Applicant. Section 3 of MPID Act provides for offence of "Fraudulent default by Financial Establishment". Section 3 provides that financial establishment and every person including the promoter, partner, director, manager or

any other person or an employee responsible for the management of or conducting of the business or affairs of such financial establishment can be held responsible for the fraudulent default, as set out in the explanation annexed to Section 3. Prima facie, the Applicant is not shown to be responsible for the management or conducting the business or affairs of the said financial establishment.

10. Insofar as the Applicant being the beneficiary of the transactions is concerned, an amount of Rs.22,00,000/- is shown to be transferred to the account of the Applicant somewhere on 23.05.2019 from his father and the contention on behalf of the Applicant is that on 22.05.201 Rs.22,60,092/- was credited to the account of his father as maturity proceeds of 34 term deposits. It is in this context, regard can be had to the submission on behalf of the Applicant that the said amount has no concern with the investment made in Universal Beverages.

11. The only other allegation by the prosecution is based on the statement of the witnesses, in which the Applicant was said to be acting along with co-accused Nos.1 and 2 and the Applicant being shown as a nominee of fixed deposit receipt of Rs.20 crores of Union Bank of India, which was found to be fake. The said deposit is shown to be in the name of Universal Beverages of which the accused Snehalkumar Patil is said to be the proprietor. The

investigation in this case is complete and the chargesheet is filed. The Applicant was arrested on 06.06.2020 and is in custody since then. In my considered view, looking to the fact that prima facie, the Applicant is not shown to be concerned with Universal Beverages and the Credit Society, he can be admitted to bail subject to conditions.

12. Hence, the following order:

ORDER

i) The Applicant **Jitendra Mansingh Patil** be released on bail in Crime No. 68 of 2020 registered with Islampur Police Station, Sangli, which is subsequently transferred to Economic Offence Wing (EOW), Sangli on executing a PR Bond in the sum of Rs.50,000/- with one or two solvent sureties in the like amount.

ii) The Applicant shall undertake to remain present before the learned Special Court, during the course of trial, unless exempted.

iii) The Applicant shall not deal with any of the movable/immovable properties which have been seized and are subject matter of the chargesheet.

iv) The Applicant shall file an undertaking to that effect before the Special Court within one week of his release.

v) The Applicant shall surrender his passport, if any, before the Special Court.

vi) The Applicant shall not tamper with the prosecution evidence/witnesses.

vii) In the event of breach of any of the conditions, liberty to the prosecution to apply for cancellation of bail.

viii) Bail bonds to be furnished before the learned Special Court.

ix) It is made clear that the observations herein are essentially of a prima facie nature and the learned Special Court shall not be influenced by the same at the trial.

x) Criminal bail application is disposed of in the aforesaid terms.

xi) Interim application is also disposed off.

C.V. BHADANG, J.