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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.1183/2021

JAIPRAKASH BANSHNARAYAN DUBEY ..APPLICANT

VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Ms. Masuma Merchant a/w. Mr. Satyandar Yadav, Ms.
Rashmi S. Dandekar for the applicant.

Ms. A. A. Takalkar, APP for State.

Mr. Pravin B. Ahire, API, Valiv Police Station.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 2, 2022.

P.C. :

1. Heard learned counsel for the applicant and learned APP.
2. The applicant is shown as accused no.1 in connection with First Information Report (FIR) No.I-1102 of 2018 lodged with Waliv Police Station, for the offence punishable under Sections 420, 465, 467, 471 read with 34 of the Indian Penal Code read with provisions of Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (hereafter 'the MPID

Act' for short) read with Sections 3, 4 and 13 of the Maharashtra Ownership Flats (Regulations of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (hereafter 'the MOFA' for short).

3. The applicant is arrested on December 1, 2018 and since then he is in custody. There are in all six accused. The accused nos. 2 to 5 are brokers. They have been released on bail. The applicant is a developer and had accepted the amounts from the investors. A total amount of Rs.4,84,53,100/- was invested in the project. On the basis of the commencement certificate which was issued at the instance of absconding accused no.6 (architect) that the construction upto the plinth level was made in an industrial zone. The complainant and the witnesses were assured flat premises and in the event flat is not constructed within time agreed, interest on the said amount.

4. Learned counsel for the applicant submitted that the construction proceeded upto the plinth level. According to her, the same *modus operandi* was adopted by the accused no.6 in respect of other developers. There are other

developers who have been cheated by the accused no.6 (architect). Learned counsel submitted that the properties of the applicant and other brokers are secured to the extent of Rs.3,47,95,000/-.

5. The communication dated November 30, 2022 of the Sub-Divisional Officer, Vasai to the Senior Police Inspector, Waliv Police Station, is placed on record by learned APP. It records that further steps are being taken to issue notification in the Official Gazette in respect of the property which is secured. It is stated that necessary steps for attachment and further steps in the light of the provisions of the MPID Act in respect of the property attached will be taken expeditiously. The competent authority to ensure that the steps pursuant to the communication dated November 30, 2022 will be taken to its logical conclusion expeditiously.

6. The applicant was arrested as far back as on December 1, 2018 and is in custody for four years. The chargesheet has already been filed. The property of the applicant is already seized. There is no likelihood of the trial commencing in near future.

7. Learned counsel for the applicant, on instructions, submits that the valuation of the property that is sought to be attached is much higher at present. Learned counsel for the applicant, on instructions, submits that the attachment and further orders of proclamation and the sale of the property will not be opposed by the applicant. In this view of the matter, the applicant deserves to be released on bail. Hence the following order.

ORDER

- (a) Application is allowed.
- (b) Applicant-Jaiprakash Banshnarayan Dubey shall be released on bail in connection with FIR No.I-1102 of 2018 lodged with Waliv Police Station, on his furnishing P.R. Bond of Rs.50,000/- with one or more sureties in the like amount.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
- (d) The applicant shall report to the Investigating Officer once in a month.
- (e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) The applicant to abide by the statement recorded.

8. The application is disposed of.

(M. S. KARNIK, J.)