Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**
**CRIMINAL BAIL APPLICATION NO.3748 OF 2021**

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| **Santosh Ramchandra Mhatre** | **]** | |
| **Aged 44 years, Occ: - Farmer/Business** | **]** | |
| **R/at: Pandevi, Tehsil - Uran, Dist.** | **]** | |
| **Raigad,** | **]** | |
| **At present Taloja Central Prison** | **]** | **Applicant\Accused** |
| **Vs.** | | |
| **State of Maharashtra** | **]** | |
| **Through Roha Police Station,** | **]** | |
| **Dist. Raigad, Vide C.R. No.70 of 2019** | **]** | |
| **to be served through Public Prosecutor** | **]** | |
| **High Court, Mumbai.** | **]** | **Respondent** |

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Mr. Niranjan Mundargi i/b Mr. Jaipal Tare - Patil, for Applicant.

Ms. P.N. Dabholkar, A.P. P, for Respondent-State.

Mr. Kailas M. Khadake, PN 1508, EOW, Raigad, present.

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| **CORAM** | **: PRITHVIRAJ K. CHAVAN, J.** |
| **RESERVED ON** | **: 18th AUGUST, 2022.** |
| **PRONOUNCED ON** | **: 5th SEPTEMBER, 2022.** |

**P.C.**

1. Applicant has been arrested by the respondent- *Roha* Police Station, District *Raigad* in connection with C.R. No.70 of 2019 for the offences punishable under sections 406, 409, 420, 467, 471, 120-B of the Indian Penal Code and sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, 1999 (for short "M.P.I.D Act") The applicant has been arrested on 1st February, 2021.

2. Facts are as follows.

3. Complainant deals in Dairy business. On 1st September, 2016, one Mr. *Ankush, Bhagat*, *Sandesh Kheratka*r and *Sunil More* approached him and informed that they are connected with *"Bijankur Group of Companies"* which deals in production of Movies, Hospitals, Shopping Malls and Constructions business. They induced the complainant to invest some amount so that the complainant would get attractive and handsome returns. Those persons informed the complainant to invest Rs.5,00,000/- for four years. The complainant would thereafter get return of Rs.10,000/- per month and he would get his entire invested amount after seven years.

4. Those persons also informed him that several people in the vicinity had already invested amount in the company and have been receiving regular income. A few certificates of those investors were shown to the complainant to gain his trust. The complainant accordingly invested Rs.5,00,000/- on 3rd September, 2016. He received an amount of Rs.7,000/- for seventeen months and thereafter a total amount of Rs.1,19,000/- out of the amount invested by him.

5. Since he has not received further amount, as promised by those persons, he approached the Branch office of the company at *Roha.* He did not receive proper reply from the said office. Ultimately, he realized that the applicant is the Chief Manager and Director of the Company. He approached the applicant requesting him to return his amount. However, he realized that he has been deceived and cheated by the applicant and his henchmen. He, therefore, lodged a report.

6. Original accused No.2 to 4 were arrested by the Investigating Officer. However, the applicant succeeded in evading his arrest. A charge-sheet has already been filed. Ultimately, the applicant also came to be arrested, whose first application for bail came to be rejected by the Additional Sessions Judge, *Mangaon*, District *Raigad* on 30th September, 2021 mainly on the ground that it being an economic offence involving huge amount of gullible investors and, therefore, it would not be proper to admit him to bail.

7. I heard Mr. Mundargi, learned Counsel for the applicant as well as Ms. Dabholkar, learned A.P.P, on behalf of respondent-State.

8. At the outset, Mr. Mundargi has invited my attention to an important aspect that First Information Report does not reflect name of the applicant nor there is any material in the charge-sheet indicating any nexus between alleged crime and the applicant, in the sense, criminal conspiracy entered into by the applicant with the rest of the accused or criminal breach of trust, forgery etc. On the contrary, Mr. Mundargi would emphasize that the applicant himself is a victim of the illegalities of the company, for, he himself had invested an amount to the tune of Rs.9,01,000/- in the accused company. To substantiate his contention, my attention is also invited to the copies of certificates of investment *qua* the applicant.

9. Next, Mr. Mundargi would argue that *modus operandi* of the Company was to ask it's investor/investors to become an agent automatically after investing handsome amount and thereafter try to get as many as investors as the agent can bring forth.

10. Mr. Mundargi would further argue that an amount of Rs.1,62,950/- alleged to have been received by the applicant is, in fact, his commission on the amount, which he had invested. Even his family members had invested huge amount in the company who have also been duped. Mr. Mundargi has invited my attention to the document at page 136-A which is a typed copy of the agreement. It indicates that following persons are the Directors of "*Bijankuar Group of Company*".

1) Manoj Ramesh Bhoir
2) Kunal Gangaram Patil
3) Pandurang Maruti Pavashe
4) Vishwas Chandrakant Patil
5) Vaibhav Ramakant Girdhar
6) Satu Krushna Keni

Mr. Mundargi would argue that in order to show his *bona fides*, applicant would deposit an amount of Rs.6,00,000/- without prejudice to the rights and contentions of the parties. Since, the trial would not be concluded in near future, he submits that no fruitful purpose would be served by incarcerating the applicant behind the bars.

11. Ms. Dabholkar opposed release of the applicant on bail mainly on the ground that it being an economic offence wherein several investors and poor persons have been duped and induced to invest their hard earned money, it would not be safe to release the applicant on bail, for, he would abscond and would not be available for a trial.

12. Investigation is already completed and charge-sheet is filed. Having perused the relevant papers, *prima facie*, it seems that the

applicant had invested some amount in the accused company and, therefore, there seems to be some substance in the argument of the learned Counsel for the applicant that he was just a local agent acting on behalf of the company. It would be too early to understand and evaluate whether the applicant had any *mens rea,* who had in fact, acted for the company under the guise of it's agent. The fact that the applicant has exhibited his willingness to deposit an amount of Rs.6,00,000/- also will have to be considered in the attending circumstances. There is no doubt that the provisions of the M.P.I.D Act have been invoked by the Investigating Agency. Offences are indeed serious. Nevertheless, what is required to be seen is whether the applicant will be available for trial and whether he is likely to influence the prosecution witnesses? It is a fact that the applicant is permanent resident of *Pandevi* Tehsil *Uran,* District Raigad where he has roots in the society. The applicant does not appear to be one of the Directors of the accused company. By imposing certain conditions, his presence can be procured during the trial.

13. Having considered the overall circumstances, I am inclined to admit the applicant to bail. Now, to the order;

[a] Application is allowed;

[b] The applicant shall be released on executing a P.R bond in the sum of Rs.50,000/- with one or two solvent sureties to the satisfaction of the Additional Sessions Judge, Mangaon, District Raigad in connection with C.R.No.70 of 2019;

[c] The applicant shall not leave jurisdiction of the concerned Court until conclusion of the trial;

[d] The applicant shall attend the trial Court on each date scrupulously;

[e] If the applicant fails to attend the trial Court on two occasions, the prosecution is at liberty to apply for cancellation of his bail;

[f] The applicant shall furnish his permanent address and cell number to the Investigating officer and the concerned Court;

[g] The applicant shall not make any endeavor either directly or indirectly to influence any of the prosecution witnesses;

[h] Release of the applicant on bail shall be subject to deposit of Rs.6,000,00/- in the Court of Additional Sessions Judge, Mangaon, District Raigad.

14. Application stands disposed of in the aforesaid terms.

**[PRITHVIRAJ K. CHAVAN, J.]**