

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

CRIMINAL BAIL APPLICATION NO.2691 OF 2022

Mohdmmad Imran Mohd. Jalal Khan	..Applicant
Versus	
State of Maharashtra	..Respondent

Mr. Harshwardhan Akolkar a/w. Mr. Vijay B. Tiwari for the Applicant.
Ms. Sharmila Kaushik, APP for the Respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATED : 30th NOVEMBER, 2022

P.C.:

1. Heard.
2. After soliciting deposits with promise to give high returns, having noticed the default on the part of the applicant and other co-accused offence punishable u/s. 420 of IPC r/w section 3 of the MPID Act vide Crime No. 382 of 2019 came to be registered. The applicant was arrested on 06/02/2020 and is charge-sheeted.
3. The prayer for grant of bail on earlier round of litigation was already rejected by this Court.
4. The applicant has drawn support from the order of the Session Court in the matter of co-accused viz. Zeenat Iqbal Shaikh passed below Exhibit-39 in MPID (Special Case) No. 248 of 2020 dated 29/03/2022, which was modified on 12/09/2022 thereby seeking

parity.

5. It is the contentions of counsel for the applicant that the applicant has no active role of participation in crime in question. He is not either way benefited from the money which was received in the offence.

6. He would urge that the applicant was given the position of an office executive / office boy and the allegation in the case is that of signing promissory notes which were issued in favour of the depositors. As such, he would urge that the entire money which were received in the crime have gone to the benefit of the main accused i.e. accused no. 1 who is already ordered to be released.

7. Learned APP would oppose the prayer on the ground that the accused no. 1 who was directed to be released has not complied with the bail condition and as such necessary consequences will follow against the accused no. 1. As such, prayer for grant of bail is not only denied on the principle of parity but also on merits.

8. I have appreciated the said submissions.

9. The present applicant approached the Special Court vide application Exhibit-49 for grant of regular bail which was rejected on 08/09/2022 with a liberty to the applicant to approach the Court below after the main accused i.e. accused no. 1 deposit at least 3

installments in view of the undertaking given by her. Said condition was incorporated keeping in mind the fact that said accused has failed to deposit single complete installment as was undertaken. As such, accused no. 1 till this date is informed to have not shown her bonfides.

10. In this background, this Court is also of the same view that the applicant should wait till the compliance of the conditions of the bail by the said accused no. 1 and the applicant can thereafter approach the Special Court again. However, learned counsel for the applicant intend to have order in the matter on merit.

11. The fact remains that the release of the accused no. 1 with whom the applicant is claiming parity has admittedly defaulted in complying with the bail condition as the said accused who was released pursuant to the order of the Session Court has failed to deposit the installments as were provided by the Session Court.

12. Apart from above, the fact that the applicant is a signatory to the promissory notes while accepting the deposits from the depositors can be inferred from the record as there is sufficient material to that effect.

13. As such, what can be noticed from the role attributed to the applicant in commission of offence is, the applicant was instrumental

in convincing the depositors/victims to make deposits with the company with whom he was working as executive and has promised higher returns. Neither the deposits nor returns were made over to such depositors. The applicant has made false promise of higher returns by issuing promissory notes under his signature which shows the active participation in the offence of cheating punishable u/s. 420 r/w section 3 of MPID Act.

14. The nature of offence committed by the parties hereto speaks of acceptance of large scale of deposits in Crores. The offence appears to have been committed by the applicant in connivance with other co-accused persons. As such, satisfaction of necessary ingredients from the material collected against the applicant can be inferred.

15. As such, the applicant's prima facie involved in the offence can be inferred. Considering the nature of the punishment provided, the offence being economic in nature, in my opinion, no case for bail is made out.

16. The application as such fails and stands dismissed.

(NITIN W. SAMBRE, J.)