IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

929 BAIL APPLICATION NO.95 OF 2023

RAJENDRA @ RAJU JEEVANLAL BAMB
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Rajendrraa S. Deshmukkh (Senior Counsel) i/b Mr. Abhishek R. Avachat, Mr. Gaurav Bafna, Mr. Jarare Prasad Devidas.
APP for Respondent-State : Mr. S. B. Narwade.
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CORAM : S. G. MEHARE, J.
DATE : 21.02.2023

PER COURT :-

1. Heard the learned senior counsel for the applicant and the learned APP for the respondent-State at length.

2. The accused has been arraigned as an accused for the offences punishable under Sections 406, 409, 420, 465, 467, 468, 384, 120-B of the IPC read with Section 39 of the Maharashtra Money Lending (Regulation) Act, 2014 and Sections 21, 22, 23, 25, 26 of the Banning of Unregulated Deposit Schemes Act, 2019.

3. It has been alleged against the applicant that he has been involved in a big business of illegal money lending. He had created the false fixed deposit receipts. He has formed the

company which was not in existence. He was receiving the deposits from the public and granting the loan to the needy persons. He was receiving the gold as a security. Huge quantity of gold was deposited in the bank locker. He exploited, cheated and looted a common man. He was also forcing the borrower to purchase LIC policy as a condition precedent. The huge cash amount worth rupees Eighteen Crore and more, thousands of fake fixed deposit receipts etc. have been seized.

4. Learned senior counsel for the applicant would argue that entire property allegedly involved in the crime including cash, gold, documents etc. have been seized. The bank account of the applicant have been frozen. The amount more than the alleged money involved in the crime has been seized. Whereas the illegal money lending business is concerned, it has been seized with the concerned authority to deal with the offence. The prosecution has no evidence that the applicant has played a fraud. The provisions of the Banning of Unregulated Deposit Schemes under the Act would not attract as the necessary procedure has not been followed. Since the applicant has been arraigned as an accused, all his enemies came together to show him down. The applicant is a reputed person. He never denied any of the depositors to return their money. He has been

arrested on 01.06.2022. The material investigation has been completed. The charge sheet has also been submitted. He is ready to abide by the conditions if any imposed while enlarging him on bail.

5. Learned APP has strongly opposed the application. He would argue that the offence committed by the applicant *prima facie* serious. Many poor persons have been looted. The applicant has breached the provisions of the Maharashtra Money Lending Act and the Banning of the Unregulated Deposit Schemes Act, 2019. Since the main offence has been registered against the applicant under Indian Penal Code, the other provisions would automatically attract. Then, it would not be essential to follow the procedure to take an action as provided under the special enactment.

6. To bolster his arguments, he relied on the judgment of this Court in Criminal Application No.5607 of 2013, dated 03.10.2018. He has serious objection to grant bail, as he has expressed an apprehension of repeating the involvement of the applicant in the similar crime. He has also vehemently argued that the applicant is an influential person, he may tamper with the prosecution witnesses. The applicant is guarded by the

politicians. Hence, to prevent the further loss to the society, he may not be granted bail.

7. Certain procedure has been laid down in the Banning of Unregulated Deposit Schemes Act, 2019 for taking the actions against the so called accused. But, the view taken by this Court in Criminal Application No.5607 of 2013 supports the arguments of learned APP. However, there is no absolute bar for granting bail. In the case at hand, a huge cash, gold, the account books, the fixed deposit receipts have been recovered.

8. Though the learned APP would argue that the investigation is still going on, the fact remains that the charge sheet has been filed against the applicant. The investigation shall not be endless. So far as Section 173 Sub Section 8 of the Cr.P.C. is concerned, Investigating Officer has powers to submit the further evidence, if discovered subsequent to the filing of the charge sheet. Therefore, the Court does not find force in the argument of the learned APP that investigation is still going on. Hence, bail cannot be granted to the applicant.

9. The sole purpose of the detention of the applicant in a crime is to prevent him or her from causing the disturbance in the investigation, avoiding the tampering with the witnesses and to disappear the evidence. In the light of this purpose of

detention of the applicant in any crime, the facts of the case and the investigation has to be examined.

10. Considering the allegations levelled against the applicant that he has been involved in the illegal business of money lending and receiving the deposits in contravention of the provisions of the Banning of Unregulated Deposit Schemes Act, 2019. The so called amount involved in the crime has been recovered. The necessary papers and gold etc. have also been seized from the applicant. It appears that the interest of the depositor and the borrower has been secured. The concerned authority under the Maharashtra Money Lending Act is empowered to deal with the issue. The seized money, gold and other documents would not be returned to the applicant till the conclusion of the trial. That may protect the interest of the prosecution and depositors. As far as the apprehension of tampering of the prosecution witnesses, stringent conditions may be imposed.

11. Considering the facts and circumstances of the case, the Court is of the view that the further detention of the applicant would serve no purpose. He deserves bail. Hence, the following order :

ORDER

(i) Bail Application is allowed.

(ii) Applicant **RAJENDRA @ RAJU JEEVANLAL BAMB** be released on bail on furnishing P.B. and S.B. of Rs.2,00,000/- (Rupees Two Lacs only) with one or two solvent sureties of Rs.1,00,000/- each, in Crime No.117 of 2022, registered by Police Station Azadnagar, District Dhule, for the offences punishable under Sections 406, 409, 420, 465, 467, 468, 384, 120-B read with Section 34 of the IPC, Section 39 of the Maharashtra Money Lending (Regulation) Act, 2014 and Sections 21, 22, 23, 25, 26 of the Banning of Unregulated Deposit Schemes Act, 2019 on the following conditions :

(a) The applicant shall not influence any of the witnesses himself or through any of person in any mode or manner till the conclusion of the trial.

(b) He shall attend the Police Station as and when called by the police on written notice for the further investigation, if any.

(c) He shall not tamper with the documents if any, in his custody pertaining to the crime.

(d) The applicant shall not enter Dhule District for six (6) months from the date of his release except for attending the present trial.

(e) He shall not involve in similar crime.

(f) He shall surrender his passport to the concerned Police Station.

(g) He shall give his residential address for the above period and his mobile phone numbers to the police.

(S. G. MEHARE, J.)

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