IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1317 OF 2023

Rajkumar Narayan Patil
Age: 42 years, Occu. Service,
R/o: 13 Siddhivinayak Nagar Kolhe
hills Jalgaon
At Now : 502 Housie ingale corner
NDA road Shivne Pune ... **Applicant**

Versus

The State of Maharashtra
Through Deopur Police Station Dist. Dhule ... **Respondent**

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Mr. Sanket S. Palnitkar and Mr. Nilesh P. Kale , Advocate for the Applicant
Mr. S. P. Deshmukh, APP for the Respondent/State

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CORAM : S. G. CHAPALGAONKAR, J.
DATE : 12.09.2023

FINAL ORDER :-

1. Heard learned Advocate for the applicant and learned APP for the State.

2. By this application, the applicant seeks regular bail in connection with Crime No.227/2021 registered with Deopur Police Station (Economic Offence Wing), Dhule for the offences punishable under Sections 409, 406, 420, 201 r/w Section 34 of the Indian Panel Code, Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishment) Act, 1999 [for short 'MPID Act;] and Section 65 and 66(d) of the Information Technology Act [for short 'the Act'].

3. The investigation was set in motion on the basis of information given by Smt. Pushpa Pankaj Patil who claims that in the year 2018, she was introduced with accused - Jitendra Bapurao Sonawane, who is a Director of E-4 U Sales and Service LLP. It was informed that, one Rajkumar Narayan Patil [present applicant] is a Chairman of the said company. The accused – Jintendra Sonawane given the details of the scheme floated by the said company to informant, through which on deposit of total amount of Rs.51,000/- in six installments, returns upto Rs.11,00,000/- can be secured. It was further informed that if she introduces any member to the scheme, the additional benefits would be available. It was further informed that any investor may generate as many as seven IDs and through such IDs, he can continue to invest in the scheme.

4. It is further alleged that the applicant has handed over cash amount to the accused – Jintendra Sonawane on many occasions. She has opened various IDs in the name of her family members and paid cash amount of Rs.4,16,000/- to the accused – Jintendra Sonawane , however no receipt is issued to her.

5. It is further alleged that the informant was thereafter appointed as scheme agent of the company, while acting so, she added 49 members and received investment of Rs.1,62,000/- from them. She has deposited the said amount as per instructions of the accused – Jitendra Sonawane and Rajkumar Patil in a company's bank account with HDFC Bank. She has further deposited amount of Rs.2,42,000/- in said

account. She further alleges that total amount of Rs.17,11,983/- has been paid in cash by her to the accused – Jitendra Sonawane. It is further alleged that the applicant [Chairman of the company] used to visit his residence. He conducted various seminars and meetings and lured investors to make deposits. However, in the month of February-2019, the applicant declared that the company is closed down and the investments made by the members would be cleared by 31/03/2020. It is further alleged that a cheque of Rs.22,76,000/- drawn on ICICI Bank was issued in her favour. Similarly, a cheque of Rs.13,70,000/- was issued in favour of another investor, namely, Rajni Patil. It was instructed that only after receiving clearance from accused cheque can deposited. It is further alleged that after laps of some period, the applicant-accused executed a notarized document dated 17/10/2020, by which, he agreed that the his agricultural land situated at Gat No.66/2 at village Bornar, Taluka Jalgaon will be transferred in the name of the informant.

6. As such, it is alleged that accused have defrauded informant and other members for total amount of Rs.36,46,000/-. In pursuance of the aforesaid information, Crime No.227/2021 came to be registered against applicant and others. The applicant has been arrested on 29/05/2022. He was remanded to the police custody. Thereafter, he is in magisterial custody. His plea for grant of regular bail has been rejected by the learned Special Judge, Dhule vide order dated 11/05/2023.

7. Mr. Palnitkar, learned Advocate appearing for the applicant would submit that the applicant is behind the bars for more than one and half year. The trial would take its own course. The investigation is completed and charge-sheet is filed long back. He would further submit that the applicant had incorporated a company, namely, E-4 U Sales and Services, which was providing for educational courses. The participants were provided for the various educational courses and certain gifts were also assured for the participant. He would submit that going by the allegations in the FIR, it would be evident that, the informant has paid the cash amount to the accused – Jitendra Sonawane on various occasions. However, there is no evidence regarding such payment. He would submit that there are no allegations against the applicant that he received any amount from the informant or any other persons. He would therefore submit that the provisions of MPID Act would not attract in the facts of the present case so also Section 409 of IPC cannot be invoked against the applicant. Since the investigation is completed, further detention of the applicant would not be necessary. Hence, he urges to release the applicant on bail.

8. Learned APP however strongly opposes the application. He would submit that the applicant has incorporated various companies in similar name and lured the investors to deposit the amount. He would submit that in all investments of Rs.37,00,000/- has been made by the various persons. The said amount is duped. He would further submit that similar offence has been registered against the applicant at Police

Station Mukundwadi, Aurangabad vide Crime No.378/2019. It is therefore evident that the applicant has been indulged in the similar activity in large scale spread over various districts of the State of Maharashtra. According to the learned APP, release of the applicant may hamper the smooth trial and it would be difficult to secure the presence of the applicant. Hence, he urges to dismiss the application.

9. Having considered the submissions advanced, apparently, the allegations in FIR show that the informant paid huge amount in cash to the accused i.e. Jitendra Sonawane. The amount of Rs.4,16,000/- has been deposited in the account of E-4 U Sales and Service in the HDFC Bank. Rest of the transaction appears to be in cash. As per the contents of FIR, the informant has received certain returns against her investments. The applicant was a Chairman of the company. From the contents of FIR or material in charge-sheet, it is difficult to find out that any investment scheme was floated by the applicant through his company. The possibility expressed by the learned Advocate for the applicant that the investors were lured by the gifts against the contribution for various courses, cannot be ruled out. The evidence on record is not sufficient to explain as to how the informant has paid huge amount in cash to the co-accused instead depositing the amount in the account of company.

10. Pertinently, the informant and Rajni Patil i.e. another investor had received two cheques from the applicant for Rs.22,76000/- and Rs.13,70,000/- respectively. Thereafter,

there is notarized agreement dated 17/10/2020 executed by the applicant in favour of the informant which states that the agricultural land standing in the name of the applicant and his wife shall be transferred after adjusting the accounts. Except informant other investors have not lodged FIR. It connotes some different transaction rather than investment scheme. The genesis of prosecution version doesn’t inspire confidence.

11. Looking to the aforesaid factual aspects, apparently, there is inconsistency in the narration in FIR and documentary evidence that is pressed into service. It is doubtful as to whether the provisions of MPID Act can be invoked in the present case

12. Apparently, the applicant has been arrested on 29/05/2022. He is behind the bars for more than fifteen months. The investigation in the matter is complete. Further detention of the applicant would not be necessary. To secure the interest of prosecution, certain conditions can be imposed. In that view of the matter, the case is made out for grant of bail. Hence, the following order:

ORDER

(i) Bail Application is allowed.

(ii) The applicant, namely, Rajkumar Narayan Patil be released on bail in connection with Crime No.227/2021 registered with Deopur Police Station (Economic Offence Wing), Dhule for the offences punishable under Sections 409, 406, 420, 201 r/w Section 34 of IPC, Section 3 of MPID Act and Section 65 and 66(d) of the Act on furnishing P.B. and S.B. of Rs.1,00,000/- (Rupees One Lakhs Only) with one solvent surety of the like amount on the following conditions:

a) The applicant shall not temper with the prosecution evidence in any manner.

b) He shall not attempt to establish contact with any witnesses named in the charge-sheet.

c) He shall not leave the State of Maharashtra without intimation to the Special Court.

d) He shall attend each and every effective date before the Special Court.

e) He shall furnish details of his current address along with Aadhar Card so also address of two close relatives along with their Aadhar Cards with the Special Court.

(iii) Bail Application is disposed of accordingly.

[S. G. CHAPALGAONKAR]
JUDGE

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