IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1604 OF 2023

BHAGIRATH RADHAKISAN BAJAJ
VERSUS
THE STATE OF MAHARASHTRA
...
Advocate for Applicant : Mr. Balraj Prakash Pande
APP for Respondents: Mr. K.S. Patil.

CORAM : S.G. CHAPALGAONKAR, J.

RESERVED ON : 4th NOVEMBER, 2023
PRONOUNCED ON : 7th NOVEMBER, 2023.

ORDER :-

1. The applicant seeks regular bail in connection with Crime No.09 of 2020 registered with Satara Police Station, District Aurangabad for offence punishable under Sections 406, 420, 201 read with 34 of IPC and Sections 4 and 5 of Prize and Chit Funds & Money Circulation Scheme (Banning) Act.

2. The investigation was set in motion on the basis of information given by Uttam Khanduji Kamble dated 7th January 2020 stating that he runs a small hotel at Trimurti Chowk, Jawahar Nagar colony area. In the month of August, 2018, the applicant with another person had been to his hotel for breakfast. At that time, the applicant told him that he runs an authorized Bhishi in the name and style of Govinda Curies Private Limited, wherein, he accepts daily, monthly, fortnightly and monthly amounts from the customers and give good returns. After some days again, the applicant alongwith one Pranita Puranik and Kuldip

Palve had been to his hotel. They persuaded him to invest amount on daily basis through Collection Agent which may yield exponential returns. It is further alleged that the informant was assured returns of Rs.1 Lakh against each daily deposit of Rs. 250 after 400 days. The accused No.1/present applicant runs the said scheme in the name of M/s. Govinda Curies Private limited. The accused Nos. 2 to 4 work as Collection Agents for the applicant. The informant made daily deposit of Rs. 250 during the period from 30th October 2018 to 10th December 2019 and on maturity, requested the applicant for refund of the amount. However, he lured the informant to open further daily deposit account. The informant continued to deposit @ Rs.1500/- per day through collection agent of applicant, namely, Mazahar Khan. He continued to make deposit for 41 days. Subsequently, he came to know that the office of the applicant is locked. The mobile/phone numbers of the applicant were out of coverage area. The accused No. 2 Mazar Khan accompanied the informant to the office situated at Satara and Shivaji Nagar area. They found the office locked. Accused No. 3 one of the key agents, gave evasive answers. The informant further states that many other investors were lured to make such deposits and they have been duped by the accused persons. Accordingly, Crime No. 9 of 2020 came to be registered.

4. The investigation progressed. The applicant came to be arrested on 1st November 2022. During the course of investigation, it was revealed that the total amount of Rs. 2,20,36076/- collected from the various investors has been duped. Accused persons have destroyed the evidence. Accordingly charges for offence under section 406, 420, 201 r/w. 34 of IPC read with Sections 4 and 5 of the Prize and Chit Fund & Money Circulation Scheme (Banning) Act 1978 came to be filed. The

applicant raised plea for bail before the Sessions Court which came to be negated vide order dated 24th August 2023.

5. Mr. B.P. Pande, learned advocate appearing for the applicant submits that applicant has been falsely implicated in the aforesaid crime. Amount has been collected by other accused persons. He has made payments to various investors. There is no evidence that the amount was siphoned off or utilized for personal gain by the applicant. The investigation does not show that applicant has generated movable or immovable property. The applicant had no intention to defraud the investors. He would submit that the cheques were issued in the name of investors who had deposited the amount. The investigation in the matter is complete charge sheet is filed. The accused No.2 has been enlarged on bail by order of this court dated 20th March 2023 in Bail Application No. 354 of 2023. The applicant is behind bars for almost one year. The offences alleged are triable by the magistrate with maximum punishment of 7 years.

6. The learned counsel for the applicant, on instructions, submits that to show bonafides the applicant shall deposit a total amount of Rs. 50 Lakhs in two installments. The first installment of Rs.25 lakhs shall be deposited forthwith and second installment within a period of 3 weeks from release of the applicant. He would further submit that the trial is likely to take its own course. Indefinite incarceration of under trial accused would amount to punishment before trial. Therefore, he urges to release the applicant on bail.

7. The learned APP, however. submits that large number of small investors have been duped. They were allured to make investment

out of there daily earning under the pretext of exponential returns at the end of the deposit term. The entire transactions are unauthorized. The evidence regarding the deposit of amount has been destroyed. Two accused persons, who were collecting the amount, are still absconding. No recovery could be secured till this date. Hence, he would urge to reject the application.

8. Having considered the submissions advanced apparently the FIR specifically names the applicant. The account statements of the accused persons shows transaction of various amounts. The registration of incorporation and income tax returns of Govinda Curies private limited shows that applicant was the Managing Director. The collection of the amount is made from the investors on daily basis, for which passbooks were supplied. There are entries of such deposits. The documentary evidence on record shows handwritten entries of various deposits received from the investors. Prima facie, there is evidence to show that the applicant was running the Bhishi and received investment from various small investors. It appears that there are allegations constituting offence under section 406, 420 of IPC read with 34 and sections 4 and 5 of Prize and Chit Funds & Money Circulation Scheme (Banning) Act. The applicant has been arrested on 1st November 2022. However, till this date, the charge is not framed. There is no trace of absconding accused Nos. 3 and 4. Accused No. 2 is already released on bail by order of this Court. she has deposited an amount of Rs. 20 Lakhs.

9. A statement is made on behalf of the applicant accused that, to show his bonafides, he would deposit a total amount of Rs. 50 Lakhs in two installments. The police papers depict that till this date, there is no recovery of the amount except the deposit of Rs. 20 Lakhs from the

accused No. 2. Since by this time, even the charge is not framed, it is difficult to predict the time required for final disposal of the trial. The offences alleged are punishable with imprisonment up to 7 years. Till this date, the applicant has suffered one year's incarceration. It is trite that indefinite incarceration of the under-trial accused cannot be permitted. Speedy trial is a right guaranteed under Article 21 of the Constitution of India. However, looking to the material cited before this court, it does not appear that even trial can be commenced in the recent future. In that view of the matter and particularly, considering the voluntary offer of deposit made on behalf of the applicant, in my opinion, no fruitful purpose would be served in continuing the detention of the applicant. It would be therefore be appropriate to enlarge the applicant on bail, however, by incorporating certain stringent conditions to secure the presence of the applicant during the trial and also to protect the interest of the prosecution. The learned APP confirms that there are no criminal antecedents to discredit the applicant. Hence, a case is made out for grant of bail.

ORDER

(i) The Bail application is allowed.

(ii) Applicant – Bhagirath S/o. Radhakisan Bajaj, be released on bail on furnishing P.B. and S.B. of Rs. 1,00,000/- (rupees one Lakh) with two equal sureties of Rs. 50,000/- each, of the like amount, in connection with Crime No. 9 of 2020 registered with Satara Police Station, Dist. Aurangabad for the offences punishable under Sections 406, 420, 201 r/w, 34 of IPC and sections 4 and 5 of Prize and Chit Funds & Money Circulation Scheme (Banning) Act on the following conditions :-

[a] The applicant shall deposit Rs. 25 Lakhs/- forthwith as a condition precedent, towards first installment before his release;

[b] Bail bonds of the applicants shall be accepted only after deposit of first installment of Rs.25 Lakhs.;

[c] The applicant shall, thereafter deposit Rs. 25 lakhs, towards second installment within a period of three weeks from the date of his release;

[d] Applicant shall not tamper with the prosecution evidence;

[e] The applicant shall not leave the state of Maharashtra without giving prior intimation to the concerned police station, till conclusion of the trial.

[f] The applicant shall visit the concerned police station twice in a week i.e. on every Monday and Thursday between 10:00 a.m. and 2:00 p.m. till he deposits the second installment of Rs. 25 lakhs;

[g] The applicant shall furnish his own Aadhar Card, residential proof and contact numbers with police station and shall update the same periodically as directed by the I.O.;

[h] In case of failure of the applicant to deposit the second installment of Rs. 25 lakhs within the stipulated period, the bail shall stand cancelled automatically. It is hereby clarified that no prayer for extension of time to deposit the amount shall be entertained unless the applicant surrenders to the Magisterial custody.

[iii] Bail application is accordingly disposed of

[S.G. CHAPALGAONKAR]
JUDGE

grt/-