**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.1924 OF 2023

SATISH SHRIPATI TIWARI
VERSUS
THE STATE OF MAHARASHTRA
...
Mr. Vikrant P. Raje, Advocate for the Applicant.
Mrs. P V. Diggikar, APP for Respondents-State.
...

CORAM : S. G. CHAPALGAONKAR, J.
DATED : 07th NOVEMBER, 2023.

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.254 of 2019 registered with Kranti Chowk Police Station, District Aurangabad for the offences punishable under Sections 406, 409, 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors Act, 1999 (for short 'M.P.I.D. Act, 1999') and Section 66(d) of the Information and Technology Act, 2000.

2. The investigation was set in motion on the basis of the information given by Smt. Tajaswini Sudhakar Gaikwad, who alleges that Mr. Vishwas Bobade was known to her. He was investing the amount in the company namely SMC Global. He gave procedure for investment in the company and told that she would get exponential returns on the investments. As per procedure of the company, the informant obtained various IDs for making investment of the amount in the company account with hope of good returns. In March-2018 she took two IDs for investment of Rs.6300/- per ID. She has further purchased certain IDs and continued to make regular investments. She has

invested total amount of Rs.1,53,700/- through online mode in the UCO Bank account of U2V Online Private Limited. She received first installment of return of Rs.16,000/- against her investment. It is further alleged that the company Directors had arranged seminar at Hotel Riviera, where details of company's investment scheme was explained to the investors. During this seminar informant had apprised Directors that as per scheme, she has not received returns. However, under the pretext that one of the Director has resigned and company's account cannot be operated in absence of signature of two Directors, time was killed. It is further case of the informant that inspite of constant persuation no returns were received to her. Similarly, many other investors of the scheme have been duped by the accused persons. Accordingly Crime No.254/2019 has been registered with the Kranti Chowk Police Station at Aurangabad. The applicant is CMD of the company and he has been arrested on 19.08.2021 in this crime. As such, he is behind the bar for more than 26 months.

3. Mr. Raje, learned Advocate appearing for the applicant would submit that the applicant is behind the bar for more than two years. Apparently, the company had no intention to dupe the investors. It is a case of business loss. He would submit that even similar offence has been registered against the applicant with City Police Station, Dist. Thane vide Crime No. 167/2021 for the offences punishable under Sections 420, 406 of the Indian Penal Code and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, 1999, wherein applicant has been released on bail vide order dated 01.08.2023 passed by this Court at Principal Seat. He would submit that all co-accused in this crime are enlarged on bail, except the present applicant.

Mr. Raje on instructions submits that to show bonafides the applicant is ready to deposit an amount of Rs.5,00,000/- in two installments. The first installment of Rs.2,50,000/- would be by way of advance and second installment would be made after release of the applicant within time stipulated by this Court.

4. The learned APP strongly opposes the prayer for grant of bail. She would submit that small investors are duped. They were lured to make investments under pretext of exponential returns. So far as the present crime is concerned, large number of investors who participated in scheme alongwith the informant have been duped for total amount more than Rs.20,00,000/-. She would submit that the accused persons have destroyed evidence by which money trail could be detected. The applicant was CMD of the company. Hence, he is responsible for the losses suffered by the investors.

5. Having considered submission advanced, apparently there are allegations in the FIR, which shows that large number of persons were lured to make investments in the company and they were assured of handsome returns. Under various schemes, the investors have deposited amount in the company account at UCO Bank, Branch at Kalyan Dist. Thane. The informant has invested the amount of Rs.1,53,700/-. However, she could get returns of Rs.16,000/- only. The statements of witnesses also show that against the investments made by them they have not received expected returns and even suffered losses on principal amount.

6. The investigation in the matter is complete. The charge-sheet is filed on 14.10.2021. Record indicate that even the charge could not be framed till this date. The applicant is behind

the bar for about 26 months i.e. with effect from 19.08.2021. It would be difficult to complete trial in near future. The right to speedy trial has been approved as fundamental right under Article 21 of the Constitution of India. The indefinite incarceration of the under trial accused is deprecated which ultimately voilates fundamental right guaranteed under Article 21 of the Constitution of India. The offences which are alleged against the applicant are mostly triable by the Magistrate and having punishment less than 10 years, except for offence punishable under Section 409 of the Indian Penal Code. Whether this case constitute offence of breach of trust is matter of trial. In this background, further detention of the applicant need not be continued. The applicant has made voluntary offer to deposit the amount of Rs.5,00,000/- to show his bonafide. However, persuaded this Court to permit applicant to deposit the same in two installments. Considering the aforesaid circumstances, case is made out for grant of bail with certain conditions. Hence, the following order:

ORDER

(i) Bail Application is allowed.

(ii) The applicant, Satish Shripati Tiwari be released on bail in Crime No.254 of 2019 registered with Kranti Chowk Police Station, District Aurangabad for the offences punishable under Sections 406, 409, 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors Act, 1999 and Section 66(d) of the Information and Technology Act, 2000 on furnishing P.B. and S.B. of Rs.1,00,000/- (Rs.One Lakh only) each with one solvent surety of the like amount on following condition:

a. The applicant shall forthwith deposit advance installment of Rs.2,50,000/-. The bail bonds of the applicant shall be accepted only on deposit of advance installment.

b. After release of the applicant on bail, he shall deposit second installment of Rs.2,50,000/- within a period of four weeks from the date of his release.

c. In case of default in deposit of the amount, bail granted to the applicant shall stand automatically canceled without further reference to this Court and applicant shall be liable to surrender before the learned Magistrate.

d. The applicant shall furnish details of his own residential address alongwith Aadhar Card and contact number with Investigating Officer and shall update the same periodically as directed by the Investigating Officer.

e. The applicant shall not tamper with the prosecution evidence in any manner.

f. The applicant shall attend each and every effective date before the Trial Court.

g. The applicant shall not leave State of Maharashtra without prior intimation and submission of itinerary with the Investigating Officer.

h. The amount be deposited with the Trial Court.

(iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE