

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 379 OF 2022**

Jitendra Madhukar WaichalApplicant

Versus

State of Maharashtra ...Respondent

Mr. Priyal G. Sarda, Advocate for the Applicant.
Ms. Anamika Malhotra, APP for Respondent-State.
API- Sachin Bandgar, EOW Solapur City present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 12th SEPTEMBER, 2023.

P.C. :

1. By this Application, the Applicant is seeking bail in Crime No.555 of 2017 registered with Vijapur Naka Police Station, Solapur for the offences punishable under Sections 403, 409, 417 and 420 read with Section 34 of the Indian Penal Code ("IPC" for short) and Section 3 and 4 of Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

2. It is the prosecution's that complainant Santosh Surwase

working as a contractor and he knew accused no.10 Siddheshwar Mittha. It is alleged that, accused no.10 Siddheshwar Mittha introduced complainant with other co-accused including the Applicant. They all told the complainant that there was a Multi Level Marketing Company and if the Complainant invests amount, he would get profit and if he gets more investors he would get more profit. Thereafter, the complainant told his friends and relatives to invest the amounts in the Company and complainant persuaded other investors to invest the amount in the company. It is alleged that complainant did it at the behest of Applicant and other co-accused. Later the complainant came to know that he has been cheated by the Applicant and co-accused. Hence, he lodged complaint against them.

4. It is contention of learned counsel for Applicant that, Applicant has been falsely implicated in this case. The complainant had invested the amount in the financial companies and not with the Applicant. Moreover, some of the co-accused has been released on bail by this Court and trial court and arrest of some co-accused are protected by Hon'ble Apex Court. Applicant has deposited Rs.35,000,00/- (Rupees Thirty Five Lakhs) before this Court and if bail is granted the Applicant will deposit Rs.15,00,000/-(Fifteen Lakhs Only) within two

weeks after release from the Jail.

Learned counsel further submitted that, Applicant is behind bar for about two years. The maximum punishment for offence under Section 420 is seven years. Investigation is completed and charge-sheet has been filed. Hence requested to allow the Application.

5. It is contention of learned APP that, Applicant was the main culprit. Applicant and other co-accused have distributed the amount of the complainant, out of that amount some is deposited in the bank account of the Applicant which shows his involvement in the crime. The poor investors had invested their hard earned money by keeping faith on the Applicant and other co-accused, but they have shattered their dreams by cheating them. If the Applicant is released on bail, he may abscond or influence the prosecution witness. Hence requested to reject the Application.

6 I have heard both learned counsel. Perused FIR and charge-sheet. The allegations against the Applicant are that, he and other co-accused cheated the complainant and other investors. The Applicant has deposited Rs.35,00,000/- (Rupees Thirty Five Lakhs Only) before this Court and as per the statement of learned counsel for Applicant, Applicant undertakes to deposit Rs.15,00,000/- (Fifteen Lakhs Only)

within two week after release from the Jail. The Applicant is behind bar for more than two years. The other co-accused have been released on bail. Investigation is completed and charge-sheet has been filed. Considering the above facts, further detention of the Applicant is not required.

7. In view of above, I pass following order.

ORDER

- (i) The Applicant be released on bail in Crime No. 555 of 2017 registered with Vijapur Naka Police Station, on furnishing PR bond of Rs.25,000/- with one or two sureties in the like amount.
- (ii) After his release from jail the Applicant shall attend the Vijapur Naka Police Station, Solapur once in a month i.e. on every 1st Monday of the month between 11.00 a.m. to 3.00 p.m. till framing of charge.
- (iii) The Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- (iv) Application is allowed in the aforesaid terms.

(SHIVKUMAR DIGE, J.)