SA Pathan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.37 OF 2023

Vipul Prakash Patil ... Applicant
V/s.
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO.934 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO.37 OF 2023

Abhijeet Vijay Pawar ... Applicant
V/s.
The State of Maharashtra & Anr. ... Respondents

WITH
INTERIM APPLICATION NO.933 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO.37 OF 2023

Ashok Gajanan Pawar ... Applicant
V/s.
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO.117 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO.37 OF 2023

Dattatray Pirappa Bhindwade & Ors. ... Applicants
V/s.
The State of Maharashtra & Anr. ... Respondents

Mr. Pankaj Kandhari, for the Applicant.

Mrs. Veera Shinde, APP for the State-Respondent.

Mr. D. V. Sutar a/w Mr. Kiran G. Kulkarni, Mr. Harshal

S. Talsankar in IA No.117 of 2023.

CORAM : AMIT BORKAR, J.

DATED : JUNE 14, 2023

P.C.:

1. Apprehending arrest in connection with C.R.No.527 of 2022 registered with Vishrambaug police station, Sangli for the offences punishable under Sections 420, 406 r/w. 34 of the Indian Penal Code (for short 'IPC') and Section 3 of Maharashtra Protection of Interest of Depositors (In Financial Establishment) Act, 1999, the applicant is seeking relief under Section 438 of the Code of Criminal Procedure (for short 'Cr.P.C.).

2. According to the prosecution one Balaso Thorat who is retired teacher, approached one Mallappa Pujari in the school while he was on duty, who introduced appellant with Pinomic Ventures Company (LLP). According to the prosecution, the applicant is not of the partner. It is alleged that the company promised handsome returns to the investors by investing amount in the share market. Accordingly, the informant deposited amount of Rs.10 lakhs out of which he received Rs.3,88,000/- in returns. Two more persons i.e. Mohsin Shaikh invested Rs.7 lakh and Ashish Pawar invested Rs.19,50,000/- with the said Pinomic Ventures Company (LLP). Since, the accused persons did not return the amount, the informant filed report against the accused persons.

3. The applicant, therefore, filed application under Section 438 of Cr.P.C. before the Sessions Court, which came to be rejected by order dated 29 December 2022. Aggrieved thereby, the applicant has filed the present application.

4. Learned Advocate for the applicant submitted that the applicant has no connection whatsoever with the Pinomic Ventures Company (LLP). According to him, there is no material on record to suggest that the applicant has received any amount from investors or Pinomic Ventures Company (LLP). He submitted that this Court protected the applicant by interim order. He has co-operated with investigation. Charge-sheet has already filed. Hence, interim order to be confirmed.

5. Per contra, learned APP invited my attention to the bank account of the applicant and the statement of investors. She submitted that the investors have attributed a specific role to the applicant that he lured them to invest in Pinomic Ventures Company (LLP). The applicant has played active role in getting investment from the investors. The bank account of the applicant shows transfer of amount from Pinomic Ventures Company (LLP). Therefore, custody of the applicant is necessary to unearth existence of racket to lure investors and siphon their amount. She, therefore, prayed for rejection of application.

6. Having perused the case diary and the statement of witnesses, prima facie it is clear that the applicant has played active role in luring investors to invest in Pinomic Ventures Company (LLP). Prima facie, towards consideration of role to lure investors to invest, Pinomic Ventures Company (LLP) has transferred amount in the account of applicant. According to the applicant, the amount received by the applicant was as by way of loan which has been thereafter repaid by the applicant. But nothing is brought on record by the applicant to support it. At this stage, I am satisfied that the custodial interrogation of the applicant is necessary to unearth larger racket of such persons to lure innocent investors by promising them to handsome returns. The nature of offence being grave and serious, it forms separate class from other offences as has been held by the Apex Court in the case of **Y. S. Jagan Mohan Reddy v/s Central Bureau of India vs Central Bureau of Investigation** decided on 9 May 2013, reported in SSC Online (2013) 7 SCC, in paragraph 34 and 35 have observed as under:

> "**34**. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.
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> **35.** While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the

> witnesses being tampered with, the larger interests of the public/State and other similar considerations.”

7. Considering the nature and gravity of offence and the effect on society, in my opinion, the applicant does not deserves relief under Section 438 of Cr.P.C.

8. The Anticipatory Bail Application is, therefore, rejected.

9. In view of the disposal of the Anticipatory Bail Application, nothing survives in the Interim Applications. Therefore, the Interim Applications are disposed of.

(AMIT BORKAR, J.)