



DIKSHA RANE

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**BAIL APPLICATION NO.1107 OF 2023
WITH
BAIL APPLICATION NO.1106 OF 2023**

AJAY ARVIND SHAH

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Senior Advocate Mr. A. P. Mundargi i/b. Adv. Ranjeet M. Pawar for the applicant in BA/1106/2023.

Adv. Ranjeet M. Pawar for the applicant in BA/1107/2023.

Ms. Veera Shinde, APP for the State.

Adv. Rajkumar Tiwari for the complainant.

PI Gengaje, EOW, Satara.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 30, 2023.

P.C. :

1. Heard learned senior advocate for the applicant. Learned APP for the State and learned counsel for the complainant opposed the application.

2. These are the applications for bail in respect of the offence punishable under Sections 406, 409, 420 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) read with Section 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (hereafter 'the MPID Act' for short) registered on

31/1/2019 vide C.R. No.47/2019 and C.R.No. 48/2019 with Phaltan Police Station, Satara.

3. There are in all sixteen accused. The applicant is the accused no.13. The applicant was working as director of 'Shree 1008, Chintamani Parshvnath Gramin Bigar Sheti Sahakari Pathsanstha Maryadit' (hereafter 'the said Pathsanstha' for short) at Kolaki, Taluka Phaltan, District - Satara. The accusations in brief are that the account holders/investors invested the amounts in the said Pathsanstha. When the investors wanted to withdraw their deposits, the cheques issued by the Pathsanstha were dishonoured. Apart from that it is alleged that there are several irregularities which were noticed in the conduct of the affairs of the said Pathsanstha. An inquiry under Section 88 of the Maharashtra Co-operative Societies Act (hereafter 'the said Act' for short) was initiated and in the report submitted, so far as the present applicant is concerned, his liability is ascertained to the extent of Rs.23 lakhs.

4. It is made clear that I may not be understood to have expressed any opinion on the liability of the applicant as the said aspect as regards the Section 88 inquiry is being

considered by me for the limited purpose of this bail application. The trial Court will not be influenced by any observations.

5. According to learned senior advocate, the entire amount of Rs.23 lakhs which is liability fastened on the applicant under Section 88 of the said Act has been deposited in this Court.

6. Learned APP and learned counsel for the complainant opposed the application for bail.

7. Learned APP submitted that one of the investor who was not paid his deposit had filed the complaint. During the course of the investigation, in respect of both the C.Rs. it was realized that the total amount defaulted by the Pathsanstha was to the tune of Rs.23 crores. Learned APP has placed on record the details of the properties belonging to the chairman, director and the Pathsanstha which are under attachment. As per the report submitted, the properties to the tune of Rs.2,48,82,254/- have been attached. There are further details about the properties that have been attached. Learned APP submitted that the applicant and the other directors are not co-operating and

furnishing any information about two of the properties of the Pathsanstha which are situated at Pimpri-Chinchwad and Talegaon which the respondent wants to attach.

8. Learned senior advocate submitted that if the applicant has any information or details as regards these properties, the applicant is obliged to co-operate with the investigating officer. Further, learned senior advocate submitted that in respect of the properties belonging to the applicant and in respect of the properties which are mentioned in the report that is submitted by learned APP, the applicant shall not deal with or dispose of or part with the possession of any of the properties with which the applicant is concerned. Learned senior advocate submitted that the applicant shall not object to the attachment of the properties belonging to the applicant in accordance with law by the trial Court. The statements made are treated as an undertaking to this Court and an affidavit to this effect be filed within a period of two weeks from the date of the release of the applicant.

9. The applicant, as indicated earlier, has already paid the amount to the extent of his liability determined under

Section 88 inquiry in the manner provided hereinabove. Over and above, there are properties which have been attached and to some extent interest of the investors is secured.

10. The applicant is incarcerated since 14/11/2022 with no possibility of the trial concluding any time soon. The applicant shall face the consequences of the trial if he is found guilty. No purpose will be served by prolonging the custody of the applicant. The same would amount to a pre-trial punishment. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

(a) The applications are allowed.

(b) The applicant- Ajay Arvind Shah in connection with C.R. No.47/2019 and C.R.No.48/2019 registered with Phaltan Police Station shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more solvent sureties in the like amount.

- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 1,00,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating Officer of Phaltan police station once in a month every first Wednesday of the month between 11.00 a.m. and 1.00 p.m. till the trial concludes.
- (e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
- (f) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.
- (g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.
- (h) The applicant shall surrender his passport, if any, to the investigating officer.

(i) As per the statement made, the applicant shall co-operate with the investigating officer for ascertaining and identifying the properties belonging to the said Pathsanstha.

(j) The affidavit to be filed by the applicant in terms of what is noted hereinabove within a period of two weeks from the enlargement of the applicant on bail. The applicant to abide by the statements made in the affidavit and the undertaking recorded hereinbefore.

(k) The amounts which are deposited, if any, in this Court be transferred to the MPID Court. It is open for the complainant/investors to make an application to the MPID Court for release/withdrawal of the amount so deposited which application shall be considered on its own merits and in accordance with law. If such application is made, the MPID Court is requested to decide the same expeditiously. A statement is made on behalf of the applicant that the applicant shall not oppose the application for withdrawal.

(l) The applicant shall not create any third party right in respect of the immovable properties of his ownership without the leave of the MPID Court.

(m) The Applicant shall not leave the Country without prior permission of the trial Court.

(n) The copy of the report filed by the prosecution relating to the attachments of the properties belonging to the Pathsanstha, the Chairman and Directors be furnished to the applicant.

11. The applications are disposed of.

(M. S. KARNIK, J.)