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Mr. S.V. Gavand, APP for the Respondent -State.

DATED: 15th JUNE, 2023.

1. The Applicant apprehends his arrest in C.R. No.588 of 2018 registered with Kurar Police Station, District-Mumbai for the offences punishable under Sections 120 B, 406, 409, 420, 465, 467, 468 and 471 r/w 34 of the IPC and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

2. Heard Mr. Omprakash Dubey, learned counsel for the Applicant and Mr. S.V. Gavand, learned APP for the Respondent - State. I have perused the records and considered the submissions

advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Rohit Gupta. The facts narrated in the FIR reveal that the First Informant and several other investors had invested money in Ma Kalika Co-op. Credit Society. Co-accused Pramod Kumar Mishra and his sons were members of the Managing Committee of the said Credit Society. It is stated that the investors were assured high returns. It is alleged that the Committee members siphoned off money invested by the investors.

4. The allegations against the Applicant are that he had availed loan of Rs.08,10,14,614 out of which the Applicant had repaid Rs.7,29,07,904/-. It is also alleged that the Applicant has also taken loan of Rs.38,38,000/- in name of his wife and children, out of which an amount of Rs.88,750 /- has been repaid and is liable to pay Rs.37,49,250/-.

5. The facts narrated in the FIR indicate that the Applicant is only a borrower, who has failed to repay the entire loan amount. There is no prima facie material that he had any nexus with the main accused, who were involved in inducing the investors to invest the

money or who had cheated the investors.

6. The material on record do not prima facie indicate that the Applicant had intention to cheat. Considering the nature of the accusations against the Applicant, in my considered view this would be a fit case to exercise discretion under Section 438 of the Cr.P.C.

7. Under the circumstances, the application is allowed on the following terms and conditions:-

(i) In the event of arrest of the Applicant in C.R. No.588 of 2018 registered with Kurar Police Station, District-Mumbai, the Applicant shall be released on bail on furnishing bail bonds in the sum of Rs.35,000/- with one or two sureties to the like amount;

(ii) The Applicant shall report to the concerned Investigating Officer for a period of two days from 19/06/2023 and 20/06/2023 between 11.00 a.m. to 2.00 p.m. and further as and when required by the Investigating Officer for the purpose of investigation;

(iii) The Applicant shall not tamper with the prosecution evidence and or influence the witnesses in any manner.

(iv) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact numbers, and /or change of residence or mobile details, if any, from time to time.

8. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)