

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

BAIL APPLICATION NO. 1263 OF 2022

Shamimbano Nafis Shaikh	...Applicant
vs.	
The State of Maharashtra	...Respondent

**ALONGWITH
BAIL APPLICATION NO. 1250 OF 2022**

Nizammuddin Nafis Shaikh	...Applicant
vs.	
The State of Maharashtra	...Respondent

**ALONGWITH
BAIL APPLICATION NO. 1262 OF 2022**

Nafis Kutubuddin Shaikh	...Applicant
vs.	
The State of Maharashtra	...Respondent

Mr. Rohan Hogle - Advocate for the Applicant in all applications
Mr. H. J. Dedhia - APP for the Respondent-State
PSI Shingte – Mahatma Phule Police Station

CORAM : S. M. MODAK, J.

DATE : 18th AUGUST, 2023

P. C. :-

1. Heard learned Advocate for the Applicants in Bail Application Nos. 1250 of 2022, 1262 of 2022 and 1263 of 2022 and learned APP.

2. The Applicant-Shamimbano is wife. Whereas Applicant-Nizammuddin is son and Applicant-Nafis is husband of the Shamimbano. All these three persons alongwith two others are charge-sheeted by the Police of Mahatma Phule Chowk Police Station in C.R. No. 122 of 2021. It was registered on 23/02/2022 for the offence punishable under Sections 420, 406, 323, 504 and 506 read with 34 of the Indian Penal Code. It is on the complaint of one Manisha Prakash Patil dated 23/02/2021.

3. The Applicant-Shamimbano runs National Womens Saving Group (Mahila Bachat Gat) and she is having office near Bazar Peth Police Station, Kalyan. She is promising various needy persons, assisting them in applying for loan and making employment available under different schemes and one of them is Mudra Loan scheme. She used to accept Rs. 1,500/- for becoming member of the Mahila Bachat Gat. This is beginning and thereafter, she used to assures the needy persons of availing loan under Mudra loan scheme. However, for that purpose those needy persons have to deposit Rs. 6,000/- being the first installment of Bachat Gat and Rs. 2,500/- towards processing fees. The first informant-Manisha Prakash Patil is one of such investors.

4. Even for the purpose of the gaining confidence the present Applicant has arranged a meeting at Atrey hall, Kalyan West. There are further inducement to those needy persons to deposit more amount.

5. Finally, on 23/02/2021 when all these ladies went near the Tahsildar office, Kalyan, all the Applicants quarrelled with those ladies. Finally, F.I.R. came to be lodged.

6. During investigation few more needy persons were identified. The total there are 47 women investors who have totally invested Rs. 6,97,400/-. The receipt used to be issued by the Applicant-Shamimbano. One of such receipt is on page no. 109 in the name of the National Maha Bachat bank.

7. Apart from the present offence, there are also nine offences registered against the present Applicant-Shamimbano. The details are mentioned in para no. 6 of the affidavit on page no. 406. So far as allegation against the husband-Nafis and son-Nizammuddin are concerned, they used to remain present in the office and used to lure the needy womens for investing in this Mahila Bachat Gat and assures them on Mudra loan scheme.

8. Learned Advocate for the Applicants tried his level best

to do calculations and contended that the amount will not be to the tune of Rs. 6,97,400/-. My attention is also invited to the registration granted to her. Whereas according to the learned APP, it is not authentic. Certificate is at page no. 41.

9. So also my attention is invited to various services made available by the Applicant-Shamimbano. It is on page no. 42. Without prejudice to the rights, learned Advocate for the Applicant-Shamimbano has shown readiness to deposit an amount of Rs. 4,70,000/- if certain time is given. It is contended that now the entire business has come to standstill and there is no balance in the bank account.

10. All these Applicants are behind bar since February 2021, one does not know when the trial will start. Charge-sheet is already filed. No purpose will be served by detaining them behind bar.

11. So I am inclined to accept the readiness shown by the Applicant- Shamimbano but bail can be granted only on deposit of that amount.

12. So far as the Applicants Nafis and Nizammuddin are concerned, even though there is an allegation that both of them remained present in the office and assisted Shamimbano, admittedly

they have not accepted any amount. So their role *prima-facie* seems to be secondary to the role of the Shamimbano. They are also behind bar since February, 2021. There is no assurance that trial will start in near future. They can be granted bail. Hence following order is passed:-

ORDER

- (i) All three bail applications are allowed.
- (ii) Applicants-Nizammuddin and Nafis arrested in connection with C.R. No. I-122 of 2021 registered with Mahatma Phule Chowk Police Station for the offence punishable under Sections 420, 406, 323, 504 and 506 read with 34 of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, be released on bail on furnishing Personal bond and surety bond in sum of Rs. 25,000/- each.
- (iii) Applicant-Shamimbano arrested in connection with C.R. No. I-122 of 2021 registered with Mahatma Phule Chowk Police Station for the offence punishable under Sections 420, 406, 323, 504 and 506 read with 34 of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, be released on bail on furnishing Personal bond and surety bond in sum of

Rs. 25,000/-.

- (iv) The trial Court to accept the surety of Shamimbano only if an amount of Rs. 4,70,000/- is deposited in the trial Court.
- (v) All Applicants are directed to give attendance to Mahatma Phule Chowk Police Station, Kalyan on first Monday of every month from 10.00 a.m. to 12.00 noon for one year.
- (vi) Trial Court to decide about disposal of this amount after hearing parties.

13. All applications are disposed of in the aforesaid terms.

[S. M. MODAK, J.]