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

BAIL APPLICATION NO.1018 OF 2023

1. AJAY KRUPASHANKAR SHRIBASTAK

2. MOHD. RAZA YAKUB KHAN

..APPLICANTS

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Nilesh Navale for the applicants.

Ms. Veera Shinde, APP for the State.

PI Atul Kedar, E.O.W., Thane City.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 9, 2023.

P.C. :

1. Heard learned counsel for the applicants and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Sections 420, 406, 409 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) and under Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, ("MPID Act", for short) registered on 29.08.2022 vide C.R. No.489 of 2022 with Mahatma Phule Chowk Police Station, Kalyan, District Thane.

3. The applicants are the original accused Nos.1 and 3. The applicants were arrested on 29.08.2022. The prosecution case in brief is that the accused started a business of fish farming. Around 278 investors invested a sum of Rs.4,21,00,000/- in this business who were promised assured returns. A sum of Rs.1,08,00,000/- was returned to the investors from this amount. Learned counsel submitted that a sum of Rs.1,51,00,000/- is reflected in the bank statements of the company which has been paid to the agents. I may not be understood to have expressed any opinion on the rival claims. Suffice it to observe that in respect of the offence punishable under Sections 420, 406, 409 read with 34 of the IPC and Section 3 of the MPID Act the applicants were taken into custody on 29.08.2022 and are now in custody for more than one year and two months.

4. Learned APP opposed the application for bail contending that huge amount is involved in the present offence.

5. Learned counsel for the applicants on instructions has filed three affidavits-cum-undertakings on behalf of the

applicants indicating the details of the properties which the applicant Nos.1 and 2 are ready to secure during the pendency of the trial subject to appropriate orders that may be passed by the trial Court. The affidavit filed by the father of the applicant No.1 is at page 791, the affidavit filed by the brother-in-law of the applicant No.2 is at page 849 and the affidavit filed by the brothers of the applicant No.2 is at page 918 of the paper book. The statements made in the said affidavits are accepted as an undertaking to this Court and learned counsel for the applicants on instructions submits that the statements made therein will be abided by the present applicants as well.

6. In the facts and circumstances of the present case further custody of the applicants will only be by way of pre-trial punishment. The investigation is complete and the charge-sheet has been filed. The applicants do not appear to be a flight risk. I am inclined to enlarge the applicants on bail. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicants-Ajay Krupashankar Shribastak and Mohd. Raza Yakub Khan in connection with C.R. No.489 of 2022 registered with Mahatma Phule Chowk Police Station, Kalyan, District Thane shall be released on bail on their furnishing P.R. Bond of Rs.50,000/- each with one or more sureties in the like amount.

(c) The applicants are permitted to furnish cash bail surety in the sum of Rs.50,000/- each for a period of 6 weeks in lieu of surety.

(d) The applicants shall attend the Investigating Officer of Mahatma Phule Chowk Police Station, Kalyan, District Thane once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m. till further orders of the MPID Court.

(e) The applicants 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 applicants shall not tamper with evidence.

(f) On being released on bail, the applicants shall furnish their contact numbers and residential addresses to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicants shall attend the trial regularly. The applicants shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicants shall not leave the country without permission of the trial Court.

(i) The applicants shall surrender their passports, if any, to the investigating officer. If they do not have passports, they shall file an affidavit to that effect before the trial Court at the time of his release on bail.

7. The application is disposed of.

(M. S. KARNIK, J.)