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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1229 OF 2023

Rahul Parshuram Jadhav … Applicant

V/s.

The State of Maharashtra … Respondent

Ms. Priyanka Gupta a/w. Mr. Rupesh A. Zade, for the applicant

Mrs. Rutuja Ambekar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JULY 3, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.0047 of 2023 for offences punishable under Section 406, 420, 467, 468, 471, 120-B of the Indian Penal Code, 1860 and Section 3, 4 and 5 of the Maharashtra Protection of Interest of Depositors Act, 1999 the applicant is seeking relief of pre-arrest bail under Section 438 of the Criminal Procedure Code, 1973.

2. According to the prosecution, accused No.1 and the co-accused had cheated innocent investors of Rs.5 to 6 crores in the name of Rice Pulling (using radiation of Chandrayan and Mangalyan disease like cancer can be cured). Accused No.1 is the group leader who told the informant that accused No.1 had received Rs.44,000 crores from Research Organization (NASA). He pretended that the Government of India had told you, accused

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No.1 the amount of Rs.44,000 crore could not be disbursed to the applicant in cash, but 60% of the said amount needed to be deposited with the Government of India as a non-refundable unsecured loan and thereafter, accused No.1 will get the amount of Rs.27,000 crore from the Government of India. He portrayed his mother's name as the legal heir to claim the amount. He, therefore, called upon the informant and others to execute the agreement on Rs.500/- stamp paper. Accordingly, the informant and 15 others executed such an agreement in favour of accused No.1, which was Rs.20 lakh.

3. Accused No.1, thereafter, portrayed to the investors that he had got 500 acres of land from the 13th heir of Jeeva Mahale. On 24 December 2019, accused No.1 gave an impression and depicted that he had purchased 4,500 acres of land for its development as Film-city. He invited 2000-2500 members based on an aforesaid promise. He further received the amount from various investors. According to the prosecution, the amount of Rs.5 to 6 crore has been received by the accused persons in connivance with each other. The applicant is one such person who actively helped accused No.1 to get the amount.

4. Before considering the material on record, it is necessary to consider the parameters of Section 438 of Cr.P.C. in the context of economic offences. Judicial notice needs to be taken of the exponential rise in economic offences by luring innocent investors promising high returns, getting investments and refusing to pay back their money. Such offences have affected the economic development of the Country.

5. The Apex Court, in the case of **Narinderjit Singh Sahani & Anr. vs. Union of India and Ors** reported in (2002) (2) SCC 210, was considering a case under Sections 406, 409, 420 and 120-B of IPC, wherein it is observed that in relation to such offences power under Section 438 of the Criminal Procedure Code shall not ordinarily be exercised unless it is established that such criminal accusation is not a bona fide one.

6. In the case of **Ram Narayan Popli vs Central Bureau of Investigation** reported in (2003) 3 SCC 641 in paragraph 382 has observed thus:

> "**382.** The cause of the community deserves better treatment at the hands of the court in the discharge of its judicial functions. The community or the State is not a persona non grata whose cause may be treated with disdain. The entire community is aggrieved if economic offenders who ruin the economy of the Sate are not brought to book. A murder may be committed in the heat of the moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white-collar crimes with a permissive eye, unmindful of the damage done to the national economy and national interest, as was aptly stated in State of Gujrat v. Mohanlal Jitamalji Porwal."

7. The Supreme Court, in the case of **Himanshu Chandravadan**

Desai & Ors vs State of Gujarat, reported in (2005) 13 SCC 234 was considering a similar case where the applicant, along with other directors of a cooperative bank, siphoned off funds of the bank by bogus and fictitious documents. The Apex Court refused to grant regular bail under Section 439 of Cr.P.C. relying on the Constitution Bench of the Supreme Court in the case of **Bihar Legal Support Society vs Chief Justice of India & Anr.,** reported in 1986 (4) SCC 767, observing that the crime in which petitioners are involved is very serious, involving a conspiracy to cheat and the fraud public institutions for a systematic manner and punishment is likely to be severe in the event of a conviction.

8. The Supreme Court, in the case of **Gurbaksh Singh Sibbia etc. vs State of Punjab,** reported in 1980 (2) SCC 565, delineated the parameters exercising powers under Section 438 of Cr.P.C. holding “the larger interest of public or State" is one of the relevant factors to be kept in mind by the Court while deciding the application for anticipatory bail.

9. In the case of **Nimmagadda Prasad vs C.B.I.,** reported in **2013 (7) SCC 466**, the Apex Court, in paragraph 25, has observed as under:

> “**25.** 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."

10. In light of the position of law laid down by the Apex Court, I have carefully scrutinized the material against the applicant. The material to connect the applicant with accused No.1 is the transfer of Rs.1,40,47,000/- in the account of accused No.1. The accused No.1 has transferred back amount of Rs.14,61,000/- in the applicant's account. The entries in the applicant's bank account, prima facie indicate that investors deposited cash amount of investment in the bank account of the applicant, which was transferred to the bank account of accused No.1 and in return for service rendered by the applicant of helping accused No.1 to gain investment from numerous investors, amount of Rs.14,61,000/- was transferred in the account of the applicant. The material on record thus reveals an active role played by the applicant in the financial scam of accused No.1. The material on record, prima facie indicates that the applicant was aware of the intention of accused No.1. Therefore, custodial interrogation of the applicant is necessary.

11. Hence, the anticipatory bail application is rejected. No costs.

(AMIT BORKAR, J.)