IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2583/2021

MARCELINE GILBERT BAPTIST ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Dr. Abhinav Chandrachud a/w. Adv. Ravi Kotian, Adv. Pranit Kulkarni, Adv. Sonali Kulkarni, Adv. Pankaj Shinde i/b. Jayshree Tripathi for the applicant.
Ms. P. N. Dabholkar, APP for State.
API Vijay Waghmare, Mira Road Police Station.
HC Mahendrasingh Girase, Kashimira Police Station.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 15, 2023.

P.C. :

1. Heard learned counsel for the applicant. Learned APP for the State vehemently opposed the application for grant of bail.

2. This is an application for bail in respect of First Information Report (FIR) No.224/2020 registered on October 2, 2020 with the Mira Road Police Station, under Sections 406, 409, 465, 468, 471, 420, 120-B read with 34 of the Indian Penal Code, 1860 (hereafter "the IPC", for short) read with 3, 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (hereafter

"MPID Act", for short).

3. The FIR was registered by one of the investors. In all up till now there are 1409 investors who are cited as witnesses. The allegation is in respect of the term deposits and the investments made by the various investors in Malaika Multi State Co-operative Credit Society Ltd. (hereafter 'the said Credit Society' for short), of which the applicant's husband-Gilbert was chairman. The investors are duped.

4. Learned APP submitted that even now there are several investors who are coming forward making allegations that they were induced to invest money in the said Credit Society and the investigation is on going. My attention is invited to the statements made in the charge-sheet. The amount invested by the investors is more than Rs.225,53,28,733. In the Mira Road branch an amount of Rs.158,95,06,230/- was deposited.

5. A reading of the statements of the witnesses *prima facie* reveals that it is the applicant's husband and Manohar Shetty, one of the directors, who were looking after the day-to-day affairs of the said Credit Society. No doubt, there are

4 to 5 witnesses who have stated that the applicant was present along with the chairman and the said director Manohar Shetty and she had projected the benefits of investing in the said Credit Society which could fetch them much better returns than the one offered by Nationalized banks.

6. Learned APP submitted that the present applicant is a beneficiary to the extent of Rs.1,63,20,000/-. Apart from this, learned APP submitted that the investments which were made in the said Credit Society were then utilized towards the grant of loan to different entities of which the applicant was the director. It is also the allegation that the loans were sanctioned without any proper documentation only to benefit the entities in which the applicant had interest. Learned APP submitted that this is a very serious economic offence and having regard to the nature of the accusations and the gravity of the allegations, this is not a fit case where the applicant should be released on bail. It is further submitted that more and more investors are coming forward with their grievances and therefore, the investigation as to the money trail is on going, which also is a circumstance to dissuade this Court from releasing the applicant on bail.

7. After the application made by the present applicant for pre-arrest bail came to be rejected by this Court, the applicant surrendered and came to be arrested on June 7, 2021. The charge-sheet was filed on February 26, 2021 and the supplementary charge-sheet against the applicant has been filed on August 2, 2021. The allegations are serious. They are mainly against the applicant’s husband and the other directors. Except for one witness saying that the applicant is a director in the said Credit Society, there is no material on record in the form of any resolution or otherwise indicating that the applicant is a director of the said Credit Society. The applicant was present on some occasions as stated by 3 to 4 witnesses along with the chairman, when the applicant filled the forms of the investors and collected some amount in cash.

8. The applicant is now in custody for more than one year and eight months. She is a woman. After her anticipatory bail was rejected, the applicant surrendered. The applicant does not appear to be a flight risk.

9. The applicant has filed an affidavit dated February 13, 2023 that she has no objection if the properties mentioned in the affidavit are attached by the competent authority or the MPID Court. The properties so mentioned are not at all sufficient to cover the extent of the amounts deposited by the investors. However to serve the interest of the investors, even to a limited extent possible, the statements made in the affidavit need to be accepted as an undertaking to this Court.

10. Taking an overall view of the matter and *prima facie* as I find that, the day-to-day affairs of the said Credit Society were looked by and as the allegations are mainly against the applicant's husband and one Manohar Shetty, despite the role of the applicant, in my opinion, the applicant can be granted the facility of bail. The applicant will face the consequences of the decision of the trial Court upon conclusion of the trial. She will face the trial. There are no criminal antecedents reported against the applicant. The investigation is complete. The charge-sheet has been filed. Hence the following order.

O R D E R

(a) The application is allowed.

(b) The applicant in connection with FIR No.No.224/2020 registered with the Mira Road Police Station, shall be released on bail on her furnishing P.R. Bond of Rs.1,00,000/- with one or more sureties in the like amount.

(c) The applicant is permitted to furnish temporary 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 report to the Investigating Officer of the concerned police station once in a month on every first Monday of the month between 11.00 a.m. and 1.00 p.m. and thereafter, as and when called.

(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 her contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicant shall not leave the jurisdiction of Mumbai/Mumbai Suburban District without the leave of the trial Court.

(h) The applicant to abide by the statements made in the affidavit.

11. The application is disposed of.

(M. S. KARNIK, J.)