



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

BAIL APPLICATION NO. 1423 OF 2023

ASHOK RAMASHRAY TIWARI	..APPLICANT
VS.	
THE STATE OF MAHARASHTRA	..RESPONDENT

Adv. Tripti R. Shetty for the Applicant.

Ms. Veera Shinde, APP for the State.

PSI Anil A. Mhaske, Virar Police Station.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 26, 2023

P.C. :

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

2. This is an application for bail in respect of the offence punishable under Sections 420, 409, 506 and 34 of the Indian Penal Code (IPC) and Sections 3 and 5 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (MPID Act), registered on 27/12/2022 vide C.R. No.1096 of 2022 with Pelhar Police Station.

3. The applicant is accused No.2. There are in all 4 accused. The applicant was working as a secretary in Vishvapriya Co-op. Credit Society. From the accusations in

the FIR, it appears that the accusations are mainly against accused No.1 who has induced several investors to invest their savings on the assurance of getting good returns. When the investors called up the applicant in his capacity as a secretary, he told the informant that the accused No.1 and his father had fled to their village along with their money and the investors were duped.

4. Learned APP opposed the application and submitted that the total amount involved in the offence is approximately Rs. 2,30,70,000/-. So far as the present applicant is concerned, he had taken a loan of Rs.17,00,000/- without following any proper procedure. The principle has been repaid but according to the learned APP, there is still an outstanding of Rs.25,00,000/- payable by the applicant to the society towards interest. Learned counsel for the applicant disputed the claim of interest. Learned counsel, on instructions, submitted that the applicant is obligated to pay the interest due and payable provided the same is based on proper calculations. It is further submitted by learned counsel for the applicant that the applicant's flat situated at Antop Hill, Mumbai, is already

under attachment. The valuation of the said flat is approximately Rs.92,00,000/-. There is a loan advanced to the tune of Rs.30,00,000/- towards the said flat. It is submitted that the loan is being serviced regularly. Learned counsel further submitted if the applicant is enlarged on bail, the applicant undertakes to file affidavit-cum-undertaking that the loan amount which is being serviced regularly will continue to be serviced regularly by the applicant. Presently there is a tenant in the flat and the learned counsel for the applicant submits that the applicant shall not create any third-party right or shall not mortgage or create any charge or deal with the flat already under attachment. Learned APP submitted that there is another offence registered against the applicant at Antop Hill, Mumbai, where there are similar accusations against the applicant.

5. *Prima facie*, it appears that the accused No.1 and the other accused are mainly the beneficiaries. There is nothing on record to indicate that the applicant is the beneficiary except for the loan that has been taken by the applicant, the interest payable thereon being the

outstanding. The interest on the loan amount, if properly calculated, the applicant is willing to pay within a period of 2 years or as may be ordered by the competent Court. Statement is accepted. The flat which is under attachment will to some extent secure the amount involved in the offence. It is up to the MPID Court to pass appropriate orders in that regard in accordance with law.

6. The applicant was arrested on 02/01/2023 and is now in custody for more than 10 months. The trial is likely to take a long time to conclude. Further custody of the applicant in such circumstances is not necessary which will only be by way of a pre-trial punishment, considering the nature of the accusations against the applicant. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Ashok Ramashray Tiwari in connection with C.R. No.1096 of 2022 registered with Pelhar Police Station shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more solvent sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of

Pelhar police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.

(d) 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.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) The applicant shall not leave India without prior permission of the trial Court.

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

(h) The applicant shall surrender his passport, if any, to the investigating officer.

(i) The applicant shall, before his release, file an affidavit-cum-undertaking before this Court that he will abide by the statements made hereinbefore. The jail authorities shall permit the applicant to affirm such affidavit.

7. The application is disposed of.

(M. S. KARNIK, J.)