IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2962/2021

MOHAMMED IRFAN SHAHADAT ANSARI ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

WITH
BAIL APPLICATION NO.3065/2021

SHAMIM AHMAD REHMATULLA ANSARI ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Ali Bubere a/w. Adv. Harsh Ramchandani and Adv. Irum Shaikh i/b. Adv. Rajendra Rathod for the applicant in BA/2962/2021.
Adv. Hrishikesh Mundargi a/w. Adv. N. M. Nadar for the applicant in BA/3065/2021.
Ms. P. N. Dabholkar, APP for State.
PSI Sharad Salekar, Shanti Nagar Police Station.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 13, 2023.

P.C. :

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

2. The applicant-Shamim Ahmad Rehmatulla Ansari is the husband of the original accused no.2. The accused no.2 was working with the accused no.1 as an employee. The accused no.2 has been granted default bail.

3. The offence is registered under Sections 406, 420, 506 read with 34 of the Indian Penal Code, 1860 (hereafter 'IPC' for short) read with Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (hereafter "MPID Act", for short).

4. The applicant-Shamim was arrested on April 2, 2021 on the basis of the statement of one of the witnesses. It is the case of the prosecution that the accused no.1 propounded a scheme whereby the investors were asked to deposit their gold ornaments on which good returns were promised. The accused no.1 collected gold ornaments to the tune of Rs.2,30,57,750/-. It is alleged that the accused no.1 obtained a loan against the gold so deposited from the finance company. Around two and half kilo gold has been recovered from the accused no.1 which of course does not cover the entire value of the gold deposited by the gullible investors.

5. So far as the applicant-Shamim is concerned, the gold of 251.5 gms. was deposited with him. It is not the case that any loan was taken by the applicant-Shamim or that he misused the gold ornaments. The allegation is that he endorsed the scheme and explained the benefits of the said scheme to the investors.

6. Learned counsel for the applicant-Shamim submitted that even his close relatives invested in the said scheme to the tune of Rs.5 lakhs. The gold which was deposited with the applicant-Shamim has been seized. There is no witness who says that the gold was handed over to the applicant-Shamim or any money was handed over to him. The applicant-Shamim is in custody for more than one year and ten months.

7. So far as the applicant-Mohammed Irfan Shahadat Ansari (accused no.6) is concerned, he is the brother of the accused no.1. *Prima facie*, there is no role alleged against the applicannt-Mohammed Irfan Shahadat Ansari in the charge-sheet. There is no allegation that any gold was deposited with the applicant-Mohammed Irfan Shahadat Ansari except that he also endorsed the scheme. It is not alleged that the applicant-Mohammed Irfan Shahadat Ansari is the beneficiary of the said scheme. The applicant- Mohammed Irfan Shahadat Ansari was arrested on March 29, 2021 and he is now in custody for almost one year and nine months.

8. The investigation is complete. The charge-sheet is filed. No criminal antecedents are reported against the applicants. Considering the nature of the accusation against the applicants, the applicants can be released on bail. Hence the following order.

ORDER

(a) The applicant– Mohammed Irfan Shahadat Ansari in B. A. No.2962/2021 and the applicant- Shamim Ahmad Rehmatulla Ansari in B. A. No.3065/2021 in connection with FIR No.190/2021 registered with Shanti Nagar Police Station, shall be released on bail on furnishing P.R. bonds in the sum of Rs.25,000/- each with one or more sureties in the like amount.

(b) The applicants are permitted to furnish cash bail sureties in the sum of Rs. 25,000/- each for a period of 6 weeks in lieu of sureties.

(c) The applicants shall report to the concerned Police Station once in a month on the first Monday of every month between 11.00 am and 1.00 p.m. till the trial is concluded.

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

(e) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

9. The applications are disposed of.

(M. S. KARNIK, J.)