IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2453 OF 2022

Vinay Shivaji Kamble …. Applicant
Versus
The State of Maharashtra …. Respondent

Mr. Satyavrat Joshi along with Mr. Samay Pawar and Mr. Nitesh Mohite, Advocate for the Applicant.
Ms. Pallavi N. Dabholkar, APP for Respondent-State.
Mr. Shivaji Kamble, Applicant's father present in Court.

CORAM : SHIVKUMAR DIGE, J.

DATE : 11th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No.I-55 of 2022 registered with APMC Police Station, Navi Mumbai for offences punishable under Sections 406, 409, 420 read with 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Maharashtra Protection of Investors and Depositors (in Financial Establishments), Act, 1999 (for short "the MPID Act").

2. It is prosecution's case that applicant is one of the director of the company viz. M/s. Tanvisha Fisheries Private Limited situated

at Navi Mumbai, Vashi, and applicant and other directors have cheated complainant and other investors by taking amounts from them with assurance that they will return more amount with incentives. As per the say of the applicant and his wife, complainant invested amount but applicant did not return the amount as assured by him. Hence, complainant lodged a complaint against applicant and co-accused.

3. It is the contention of learned counsel for applicant that as per charge-sheet, total fraud is of around Rs. 8,00,00,000/- (Rupees Eight Crores), out of that, applicant has repaid Rs.3,60,00,000/- (Rupees Three Crores Sixty Lakhs) to the investors and police has seized Rs.84,00,000/- (Rupees Eight-Four Lakhs) from bank accounts of the applicant. There is one flat of applicant's father and applicant's father is ready to place original title-deeds of the said flat before the Trial Court to secure the interest of the depositors. Learned counsel further submitted that father of the applicant will file an undertaking/affidavit before the Trial Court that he will not sell/ lease out or rent out the said flat unless the amount of investors is repaid. Learned counsel further submitted that applicant is behind the bar for more than one year. Investigation is completed and

charge-sheet has been filed. If applicant is released on bail, he will make efforts to repay the amount of investors. Hence, requested to allow the application.

4. It is the contention of learned APP that applicant had cheated the complainant and investors by alluring them that they will give more benefits on invested amounts. There is prima facie case against applicant. Hence, requested to reject the application.

5. I have heard both learned counsel, perused the FIR and charge-sheet.

As per the statement of learned counsel for applicant, applicant has repaid an amount of more than Rs.3,00,00,000/- (Rupees Three Crores) to the investors. Rs.84,00,000/- (Rupees Eight-Four Lakhs) is seized by the police and in respect of remaining amount, applicant's father is ready to deposit title-deeds of his flat before the Trial Court in order to secure the interest of the depositors.

6. In the matters of money laundering i.e. under MPID Act, it is necessary to secure the interest of the investors. Applicant has repaid the amount of more than Rs.3,00,00,000/- (Rupees Three Crores) to the investors as well as Rs.84,00,000/- (Rupees Eighty-

Four Lakhs) is seized by the police. Further applicant’s father is ready to deposit the title-deed of his flat, the market value of which is worth Rs.1,75,00,000/- (Rupees One Crore Seventy-Five Lakhs Only). Applicant is behind bar for more than one year. Investigation is completed and charge-sheet has been filed. It may take time to conclude the trial.

7. Considering the above facts, I pass following order :

ORDER

(i) Applicant be enlarged on bail in in Crime No.I-55 of 2022 registered with APMC Police Station, Navi Mumbai, on executing P.R.Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.

(ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.

(iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.

(iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

(v) Applicant's father shall deposit the title-deed of his flat before the Trial Court along with an undertaking that he will not sell, lease out or rent his flat till the amount of investors is repaid.

(vi) Applicant shall make an endeavour to repay the remaining amount of investors after his release from jail.

8. The application is allowed in the aforesaid terms and is accordingly disposed off.

9. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)