AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2150 OF 2022

Shankar Maruti Bandgar ... Applicant
V/s.
The State of Maharashtra & Anr. ... Respondents

Mr. Abhineet N. Pange i/by Mr. Swapnil *Chopade* for the applicant.

Mr. Pandutang H. Gaikwad, APP for the respondent no.1/State.

CORAM : AMIT BORKAR, J.

DATED : JUNE 14, 2023

P.C.:

1. Apprehending arrest in connection with FIR bearing C.R. No.36 of 2022 registered with Indapur Police Station for the offences punishable under Sections 403, 408, 409, 420, 120-B of the Indian Penal Code, 1860 and under Sections 5 and 6 of Prize, Chits and Money Circulation Schemes (Banning) Act, 1987 and under Sections 21, 22, 23 and 25 of the Banning of Unregulated Deposit Schemes Act, 2019, the applicant is seeking relief under Section 438 of the Criminal Procedure Code, 1973.

2. According to prosecution from 2015 to 2019 accused persons started a chit fund wherein they were collecting money from depositors on monthly or half monthly basis. The accused collected Rs.25 lakh from the complainant. The accused persons purchased various properties with the money of depositors and misappropriated it for own use. Accordingly, offence was registered against the applicant and other accused.

3. The applicant filed application under Section 438 of the Criminal Procedure Code, 1973 before the learned Sessions Judge which has been rejected by order dated 10 March 2022. Aggrieved thereby, the applicant has filed present anticipatory bail application.

4. Learned advocate for the applicant submitted that there is no material to indicate that the applicant had misappropriated amounts of depositors and purchased properties from that amount. He is ready to cooperate with the investigation. *Charge-sheet is not yet filed*. Therefore, custodial interrogation of the applicant is not necessary.

5. Per contra, learned APP submitted that there are specific allegations against the applicant. On the date of report, the misappropriated amount was to the tune of Rs.5,88,00,000/-; however it has now increased to Rs.13,81,88,000/-, which is likely to increase further. The present applicant has accepted and misappropriated amount to the extent of Rs.3,63,19,300/-. Therefore, custodial interrogation is necessary to understand the *modus operatndi* and to recover misappropriated amount.

6. I have gone through the documents on record and charge-sheet. The material in the form of statement of witnesses indicate that the applicant took money from around twelve persons. Prima facie, the material on record indicate that the applicant had accepted amount from innocent investors promising high returns, however, refusing to pay back the amount. It prima facie appears that the acts of applicant are in violation of Sections 3 and 5 of the Banning of Unregulated Deposit Schemes Act, 2019. The purpose of introduction of the said Act was to prevent such unregulated deposit schemes at their inception, thereby making accepting of such deposits pursuant to unregulated deposit schemes is punishable offence. The material on record indicates that the applicant accepted the deposits pursuant to unregulated scheme and committed fraudulent default.

7. In the facts of the case, the amount of misappropriation by the applicant which is to the tune of Rs.3,63,19,300/ is yet to be recovered. The allegations against the applicant are serious in nature. Prima facie, it appears that considering nature of promise made by the applicant he was aware of the fact that he may not be able to return the amount at such high returns. Therefore, at this stage essential ingredients of alleged offence are made out.

8. The anticipatory bail application, therefore, stands rejected. No costs.

(AMIT BORKAR, J.)

Note: This order is modified as per order dated 27 June 2023 to correct notes of appearance and paragraph 4.