IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2822 OF 2022

Ambadas Ganpati Phate ...Applicant
Versus
State Of Maharashtra ...Respondent

WITH
INTERIM APPLICATION NO. 3564 OF 2022
IN
CRIMINAL BAIL APPLICATION NO. 2822 OF 2022

Prashant Shridhar Awate & Ors. ...Applicants

In the matter between

Ambadas Ganpati Phate ...Applicant
Versus
State Of Maharashtra & Anr. ...Respondents

Dr. Yug Mohit Chaudhary a/w Mr. Dashrath Gaikwad a/w Mr. Anush Shetty for the Applicant.
Ms. P. N. Dabholkar, APP, for the Respondent-State.
Mr. Satyavrat Joshi i/b Samay Pawar for the Intervenor in IA/3564/2022.

CORAM : SHIVKUMAR DIGE, J.

DATE : 9th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in C. R. No. 27

of 2022 registered with Barshi City Police Station, Barshi, District - Solapur for the offences punishable under Section 409, 407 and 420 read with 34 of the Indian Penal Code, 1860 (for short "IPC") and Section 3 of the MPID Act, 1999.

2. It is prosecution's case that applicant's son accused no.1-Vishal Phate had established various financial companies. In the said companies mother, wife and brother of accused no.1 were directors. It is alleged that applicant and accused no.1-Vishal Phate had establishment financial firm by name Vishalka Consultancy Services Pvt. Ltd, and they induced the investors to invest the amount in the said Consultancy Service and cheated the investors. It is alleged that there is fraud of more than Rs. 41 Crore.

3. It is contention of learned counsel for the applicant that accused no.1-Vishal had started various companies soliciting deposits from the public on promises of exaggerated returns, the other accused are wife, brother and mother of accused no.1. Accused no.1 was the person managing the affairs of the business and had bank accounts in the name of his family members. The co-accused i.e.

mother, wife and brother of accused no.1 have been released on bail. It is alleged that a sum of Rs.3.7 Crore was transferred in the applicant's bank account, but said bank accounts were operated by the accused no.1. Applicant is 61 years old, having 45 % physical disability. He is retired school teacher. He is in custody since one year eight months. No witnesses have stated about the role of applicant. The bank statements produced on record show that bank accounts of applicant's were managed by the accused no.1.

4. Learned counsel further submits that the bank account opening form shows that the applicant's bank account was linked with mobile number of the accused no.1. Learned counsel further submitted that even Forensic Audit Report commissioned by the E.O.W. only stick to the role of accused no.1. In the said report, it is stated that accused no.1 credited fixed deposits in the name of his family members and spend the money for his personal purposes. The intervenors have not made any allegations against the applicant or role played by the applicant. The bank accounts of applicant have also been frozen. The assets have been seized and charge-sheet has been filed. Hence, requested to allow the application.

5. It is contention of learned APP that applicant was a director of the financial firm in which the investors have invested the amounts. In the statement of witnesses, it has come on record that applicant had asked them to invest the amount in their company. There were 10 bank accounts opened in the name of applicant in which the amounts of the investors had been deposited. It shows *prima facie* case against the applicant. Learned APP further submitted that amount of more than Rs.3 Crore was deposited in the bank accounts of applicant and, those were self operated bank accounts. The bank's letter shows that, those were self operated bank accounts and it was operated by the applicant. There is *prima facie* case against the applicant. Hence, requested to reject the application.

6. Learned counsel for the Intervenor reiterated the submissions of learned APP.

7. I have heard all learned counsel. Perused FIR and charge-sheet.

8. Admittedly, the applicant and accused no.1 were directors of Vishalka Consultancy Service Pvt. Ltd. The accused no.1 was also director of other companies. It appears from the record that 10 bank accounts were opened in the name of applicant and the investors' amount of more than Rs.3 Crore was deposited in the bank accounts of the applicant. It is contention of learned counsel for the applicant that, those bank accounts were managed by the accused no.1 and applicant was not aware about it. In my view, applicant was school teacher and he was not lay man. The 10 bank accounts were opened in his name. He had signed the bank account opening forms, it shows he was aware that 10 bank accounts were opened in his name and it is hard to believe that he was not aware, for what purpose those 10 bank accounts were opened. The amount of more than Rs.3 Crore was deposited in applicant's bank accounts. The bank's letter filed with charge-sheet shows that applicant was operating the bank accounts. It appears from record that applicant in collusion with accused no.1 deceived people with intention to cheat them. It was pre-planned fraud and to save himself from any action, the applicant had given mobile number of accused no.1 in the bank accounts opening forms. It cannot be said that the applicant was not aware

about the transactions in bank accounts and amounts deposited in the said accounts. It has come in the evidence of the witness Hanumant Nanaware that when he met the applicant, he had asked him to invest the amount in his company. Witness Sameer Inamdar and Prashant Awate have stated that they met applicant in the office of accused no.1. It shows that applicant was aware about transactions of accused no.1. Witness Tushar Raut has stated that applicant and accused no.1 had told him about investment. Merely because the applicant is more than 61 years old and has 45% physical disability, cannot be a ground to grant bail, when, it appears that the total fraud is more than Rs.41 Crores and the poor people had invested hard earnings on believing the assurances given by the applicant and accused no.1. The people may have believed on assurance of accused no.1 and applicant, as the applicant was school teacher and school teacher is considered as a respectable person in the society. There is strong *prima facie* case against the applicant.

9. In view of above, I pass following order.

ORDER

i. Application is rejected.

ii. In view of disposal of the Criminal Bail Application nothing survive in Interim Application No. 3564 of 2022, it is accordingly disposed of.

(SHIVKUMAR DIGE, J.)