



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

BAIL APPLICATION NO. 2821 OF 2023

RAHUL JAYPRAKASH GAIKWAD ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Ashok B. Tajane a/w Adv. Yuvraj A. Tajane a/w Adv.
Mrugaja P. Khair for the Applicant.

Adv. Nagesh Khedkar for the Original Complainant/
Intervener.

Mr. P. H. Gaikwad, APP for the State.

PSI Sameer Dabhade, EOW, Pimpri-Chinchwad.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 08, 2023

P.C. :

- 1.** Heard learned counsel for the applicant, learned counsel for the complainant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 406, 420 and 34 of the Indian Penal Code and Section 3 of the The Maharashtra Protection of Interest of Depositor (in Financial Establishments) Act, 1999 (MPID Act), registered on 09/04/2022 vide C.R. No.145 of 2022 with Sangavi Police Station.
- 3.** The applicant is in the real estate business. The

present applicant is accused No.1. The applicant's wife is accused No.2. It is the case of the prosecution that the applicant gained the trust of the complainant. Accused No.2 was on visiting terms with the wife of the complainant. Taking advantage of the friendly relations, the accused induced the complainant to invest a sum of Rs. 6 Crores and odd in their projects with the promise of high returns on the investments made. The applicant as well as the co-accused failed to fulfil the promise and thereby cheated the complainant.

4. The applicant was arrested on 10/04/2022 and is in custody for more than 1 year and 7 months. The possibility of the trial concluding any time soon appears remote. The properties belonging to the applicant are already attached by the MPID Court. The maximum punishment for the alleged offence is 7 years rigorous imprisonment.

5. An affidavit has been filed by the applicant stating that the applicant is willing to secure seven flats in his projects. However, the learned APP, on instructions, submitted that the construction is illegal. Learned counsel for the applicant

then contended that the applicant shall have no objection if the MPID Court attaches the properties.

6. The application is vehemently opposed by the learned APP contending that the amount involved in the offence is more than Rs. 6 Crores and the allegation of cheating along with other offences are squarely made out. Learned APP invited my attention to the affidavit in reply filed and more particularly to the ground (c) on page No.17 of the affidavit in reply (page No. 1583 of the paperbook)

7. In the facts and circumstances, I am inclined to enlarge the applicant on bail. The applicant shall file an affidavit showing details of all the movable / immovable properties of his ownership and in his possession, before the MPID Court. The applicant shall further mention in the affidavit that he has no objection if the MPID Court attaches those properties and proceeds in respect of those properties in accordance with law for releasing the outstanding amount of the complainant. Learned counsel for the applicant, on instructions, further submitted that the applicant shall have no objection for the attachment of any other movable /

immovable properties belonging to him. The applicant shall produce all the original documents and title deeds if the same are in his possession or the attested copies thereof, in respect of the properties before the MPID Court while filing the aforesaid affidavit. The affidavit to be filed within 2 weeks before the MPID Court from the date of this release. In this view of the matter, in my opinion, further incarceration of the applicant will only be by way of pre-trial custody. The applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Rahul Jayprakash Gaikwad in connection with C.R. No.145 of 2022 registered with Sangavi Police Station shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 50,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating Officer of Sangavi police station once in a month every

first Monday of the month between 11.00 a.m. and 1.00 p.m.

(e) 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.

(f) 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.

(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 to the investigating officer. If the applicant does not have passport, an affidavit shall be filed before the trial Court to that effect.

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

(j) The applicant shall abide by the statements made in this Court.

8. The application is disposed of.

(M. S. KARNIK, J.)