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

BAIL APPLICATION NO.3232/2023

KAUSTUBH ARVIND MARATHE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Amit Ghag a/w. Adv. Chinmay Inamdar, Adv. Viral Babar
for the applicant.

Ms. Veera Shinde, APP for the State.

Adv. Shailesh U. Gaikwad, API, EOW, Pune City.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 5, 2023.

P.C. :

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

2. This is an application for bail in respect of the offence
punishable under Sections 406, 420 read with 34 of the
Indian Penal Code (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) registered on 11/3/2021 vide C.R.
No.64/2021 with Kothrud Police Station. Later on the
investigation has been transferred to Economic Offences

Wing, Pune and subsequently the offence under Section 409 of the IPC was added.

3. The case of the original complainant is that she was purchasing gold and diamond at 'Pranaav Marathe Jewellers Private Limited'. The directors which included the present applicant used to accept Fixed Deposits amounts. The investors were promised that if the amounts are deposited by them they will get 15% interest on the said investment. The complainant and other investors invested huge sums of money. Initially the returns were made as promised but later on, the applicant and the other accused stopped paying them any returns. The amount involved in the present offence of cheating and misappropriation is to the tune of Rs.6 crores.

4. The applicant was arrested on 13/9/2021 and now is in custody for more than two years and two months.

5. Learned APP submitted that the present is an economic offence where the gullible investors are cheated on the promise of high returns. It is further submitted by learned APP that during the course of the investigation there was a recovery of a hard disk in which it was revealed that

apart from the amount of Rs.6 crores in respect of which the accusations are made, there have been investments by other investors to the tune of approximately Rs.24 crores. It is submitted that the respondents are investigating into such investments which have come to light recently. Therefore, it is submitted that the applicant should not be enlarged on bail.

6. An affidavit has been filed on behalf of the respondents from which it is seen that an amount of Rs.6,82,63,246.23 has been secured. Learned APP submitted that the application for anticipatory bail of the co-accused is pending before the Hon'ble Supreme Court.

7. So far as the present applicant is concerned, he is already incarcerated for more than two years and two months. Learned counsel for the applicant, on instructions, submits that the applicant is willing to furnish an undertaking that the applicant has no objection for the respondents to proceed with the attachment and further disposal of the movable and immovable properties to realize the outstanding in accordance with law. It is further submitted that within a period of two weeks from his

release, the affidavit will be filed before the MPID Court about the list of the movable and immovable properties which the applicant owns and possesses in respect of which the applicant will have no objection to the MPID Court proceeding for the attachment and sale in accordance with law. It is further submitted that an affidavit shall also contain an undertaking that in the event the respondents unearth additional movable or immovable properties belonging to the applicant, even in respect of those properties the applicant shall have no objection for the MPID Court to proceed in accordance with law. Such an affidavit may be filed within a period of two weeks from the date of the applicant's release.

8. Considering that the properties to the tune of Rs.6,82,63,246.23 are secured and further in the light of the undertaking to be filed, as the applicant has been incarcerated as an under-trial for more than two years and two months, I am inclined to enlarge the applicant on bail. The applicant, however, to co-operate with the investigating agencies and towards this end I am inclined to impose conditions. Apart from the accusations in respect of the

present offence, there are no criminal antecedents reported against the applicant. The investigation is complete. The charge-sheet has been filed. The applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Kaustubh Arvind Marathe in connection with C.R. No. C.R. No.64/2021 registered with Kothrud Police Station shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more local sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 1,00,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating Officer of Kothrud police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m. and as and when called.
- (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 passport of the applicant is already with the investigating agency which shall remain in their custody.

(i) The Applicant shall not leave the Country without prior permission of the Court.

9. The application is disposed of.

(M. S. KARNIK, J.)