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

BAIL APPLICATION NO.3897 OF 2023

MOHAMMAD SAMSHER AHMAD

MOHAMMAD SAMIM

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Shilpa Kapil for the applicant.

Ms. Rutuja Ambekar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 12, 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 420, 406 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) and under Sections 3, 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, ("MPID Act", for short) registered on 20.08.2021 vide C.R. No.1034 of 2021 with Tulinj Police Station.

3. The applicant was arrested on 06.02.2023. The applicant is a Director of the company. The applicant is the

accused No.2. The accused No.1 is the prime accused. The accused No.1 has been enlarged on bail. The allegation is that investment to the tune of Rs.2,42,26,691/- was obtained on which the accused failed to pay the promised returns. Out of this amount Rs.68,93,517/- is now paid. According to the prosecution the amount of Rs.1,73,00,000/- is yet to be recovered. So far as the prime accused is concerned, the properties of Rs.98,00,000/- are under attachment. As regards the present applicant, in paragraph (xiii) of the grounds of the application, it is mentioned that the immovable property of the applicant is attached by police by sending Registrar a letter dated 21.03.2023 for not creating any third party interest in respect of the said property. According to learned counsel for the applicant the value of the flat is Rs.60,00,000/- but according to the prosecution the value of the flat is Rs.45,00,000/-.

4. Learned counsel for the applicant submits that the applicant has no objection if the property belonging to him is subject matter of attachment by the MPID Court and the

same proceeded with in accordance with law. The statement is accepted as an undertaking to this Court. Moreover, it is always open for the MPID Court to take recourse of attachment of any other movable or immovable property in accordance with the provisions of MPID Act. The prime accused has already been enlarged on bail. The investigation is complete and the charge-sheet has been filed. In the facts and circumstances of the present case, though learned APP opposed the application for bail, I am inclined to enlarge the applicant on bail as according to me any further incarceration will only be by way of a pre-trial punishment. The applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Mohammad Samsheer Ahmad Mohammad Samim in connection with C.R. No.1034 of 2021 registered with Tulinj Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs.25,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating Officer of Tulinj Police Station 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 MPID Court and shall not seek unnecessary adjournments.
- (h) The applicant shall not leave the country without the permission of the trial Court.
- (i) The applicant shall surrender his passport, if any, to the investigating officer.

5. The application is disposed of.

(M. S. KARNIK, J.)