IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3570 OF 2023

Umesh Ramdhan Raypure ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Nehal Desale a/w. Mr. Aditya Anahorikar, for the Applicant
Smt. A.A. Takalkar, APP, for the Respondent/State.
Mr. Shrikant Dhumal, API, EOW Unit- 8 present.

CORAM : N. J. JAMADAR, J.
DATE : DECEMBER 20, 2023

P.C.:

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

2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 40 of 2023 (C.R. No. 418 of 2023) registered with Andheri police station for the offences punishable under sections 406, 409 and 420 of Indian penal Code, 1860 and sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

3. The applicant is the Proprietor of Siddharth Profit House. The applicant made a representation that he is a sub-broker in the share market. He invests the amount in the equities and commodities and earns lucrative returns. The applicant allegedly represented to the first informant that if a sum of Rs. 1 lakh was invested with the

applicant, he would return the amount along with profit @ 1.5 % per day excluding holidays. The first informant claimed to have invested a sum of Rs. 6 lakhs. The applicant executed a document on a stamp paper of Rs. 100/- denomination with an undertaking to pay Rs. 9,300/- per day. The applicant allegedly returned an amount of Rs. 3,85,000/-. Since October, 2022 the applicant started to commit default in the payment, as promised.

4. Further inquiries revealed that, like the first informant, the applicant had duped 91 other investors and defrauded the investors to the tune of Rs. 3,70,30,000/-. The applicant had made false representations in various forms to induce the investors to part with amounts and thereby duped many persons. Hence, the report.

5. The learned counsel for the applicant submitted that the very assertion in the first information report that the applicant had returned a sum of Rs. 3,85,000/- rules out intention to defraud. The learned counsel further submitted that in fact the first informant had invested a sum of Rs. 4,50,000/- only, against which an amount of Rs. 5,24,700/- was credited to the account of the applicant. It was submitted that the applicant had returned amounts along with profits to majority of the investors. To bolster up this submission, the learned counsel took the Court through the statements annexed to the application, which appear to have been prepared by the

applicant. It was further submitted that out of 91 investors, initially 31 and later on 2 more investors have given statements in writing that they have no grievance against the applicant.

6. The learned APP resisted the application. It was submitted that the applicant had floated a number of schemes to lure unsuspecting investors to invest the amount. Attention of the Court was invited to the statements of the victim and the affidavits cum declaration made by the applicant promising to pay a fixed return per day on the premise that the applicant invested the said amount as a stock broker.

7. Prima facie, there is material to indicate that the applicant had made representations that the investors would earn lucrative returns. Various schemes depending on the duration of the investments were floated and the investors were made to invest the amounts. The investigation has revealed that around 100 investors were induced to part with their amounts.

8. The endeavour on the part of the applicant to demonstrate that few of the investors have made the statements that they have no grievance against the applicant does not advance the cause of the applicants. Prima facie there is material to indicate that a majority of the investors were lurged to invest the amount and the money was not returned, as promised. The applicant had also

executed an instrument in favour of the investors to make them repose confidence in him. The amount invested by 92 investors aggregates to Rs. 3,76,30,000/-. The applicant has not returned the principal amount deposited by the unsuspecting investors.

9. In the backdrop of the aforesaid material, the submission on behalf of the applicant that the applicant is willing to pay the amount of the investors, does not carry much conviction. It is imperative to note that there is a clear prohibition against making a promise of fixed returns upon investment in the stock market. It seems the applicant by making tall claims, has induced the small time and unsuspecting investors to part with amounts in the hope of lucrative returns. It would be hazardous to draw inference that the applicant did not intend to defraud.

10. The custodial interrogation of the applicant appears to be indispensable to facilitate further investigation, have the money trail and unearth the fraud in all its facets. The number of investors and the quantum of the amount allegedly defrauded, dissuades the Court from exercising the discretion in favour of the applicant. I find substance in the submission of learned APP that number of investors who have been defrauded might increase.

Hence, the following order.

ORDER

1] The application stands rejected.

2] It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

(N. J. JAMADAR, J.)