IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

34 ANTICIPATORY BAIL APPLICATION NO. 1175 OF 2024

Rajendra Ashok Udage ....Applicant

VERSUS

The State of Maharashtra & another .....Respondents

.....
Mr. N. B. Narwade, Advocate for Applicant.
Mr. M. K. Goyanka, APP for the State.
Mr. S. R. Nikam, Advocate for the informant.

WITH
ANTICIPATORY BAIL APPLICATION NO. 1176 OF 2024

Babasaheb Laxman Mugutmal ..... Applicant

VERSUS

The State of Maharashtra & another .....Respondents

.....
Mr. N. B. Narwade, Advocate for Applicant.
Mr. M. K. Goyanka, APP for the State.
Mr. S. R. Nikam, Advocate for the informant.

CORAM : R. M. JOSHI, J.
DATE : 14th OCTOBER, 2024.

PER COURT :

1. Applicants apprehend arrest in connection with Crime No. 0448/2024, registered with Shevgaon Police Station, Tq. Shevgaon, District Ahmednagar, for the offences punishable under Sections 420, 406 of Indian Penal Code and Section 3 of the

Maharashtra Protection of Depositors (In Financial Establishments Act.

2. Learned counsel for the Applicants submits that investigation into the crime is over and that no charge-sheet has been filed against the present Applicants. It is his submission that though the Applicants were the share holders of the company, they were never directors nor concerned with the affairs of the company.

3. Learned APP and learned counsel for the informant though opposed to grant anticipatory bail to these Applicants, however, they were unable to show that the Applicants were the directors of the company or ever participated in the affairs of the company. They pointed out statements of witnesses which indicate that the present Applicants were the directors of the company in question. It is sought to be argued that the Articles of Association of the company indicates that the person holding 100 or more shares is eligible to become a director and therefore, since the Applicants are holding more than 100 shares they shall be deemed to be the directors.

4. This Court is unable to accept the contentions of learned counsel for the informant that because the Applicants were holding more than 100 shares they are to be treated as deemed directors. Relevant provision i.e. Article 96 of the Articles of Association only makes a provision for qualification of a director meaning thereby any person unless he holds 100 shares is not entitled to become director. Though Applicants hold more than 100 shares, there is absolutely no evidence on record to show that they are the directors of the company or ever participated in the affairs of the company. Merely on the basis of statement made by witnesses which vaguely state that Applicants being the founder members of the company, their participation in the affairs of the company cannot be presumed. Hence, both the applications stand allowed in terms of the interim order.

(R. M. JOSHI)
Judge

dyb