IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

960 ANTICIPATORY BAIL APPLICATION NO. 1198 OF 2024

Nilesh Shivaji Funde ....Applicant

VERSUS

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

.....
Mr. N. B. Narwade, Advocate for Applicant.
Mr. S. V. Hange, APP for the State.
Mr. S. E. Shekade, Advocate for the informant.

CORAM : R. M. JOSHI, J.
DATE : 12th DECEMBER, 2024.

PER COURT :

1. Applicant apprehends arrest in connection with Crime No. 0613/2024, registered with Tofkhana Police Station, Dist. Ahmednagar, for the offences punishable under Sections 406, 420 of Indian Penal Code and under Sections 3 and 5 of Maharashtra Protection of Interest of Depositors Act.

2. First informant is investor in Dhyey Multistate Nidhi Limited, Branch Pipeline Road, Ahmednagar. It is alleged therein that deposit was obtained from her and the same was not refunded thereafter. As far as present Applicant is concerned, he is said to be the Director of the said company. There is also allegation that

number of persons/investors were duped of their money. There is allegation in respect of mis-appropriation to the tune of Rs. 5,78,65,095/-.

3. Learned counsel for Applicant submits that though initially i.e. at the time of inception of the said company, present Applicant was one of the Directors, however, later on, the business of the said company was bifurcated into two branches. Eight companies were given under the control of one group whereas five companies were given under the control of present Applicant. This development has taken place in the year 2022. It is his submission that after he started conducting the business in respect of five branches of the company, he had no concern with the affairs of the other branches and hence, he cannot be held responsible for mis-appropriation if any done therein. He drew attention of the Court to the complaint of one of the investors of the said company who has given details with regard to as to how the business was distributed between two groups. It is his further submission that there is not a single complaint made by investors of these five companies.

4. Learned APP as well as learned counsel for the informant opposed the application by contending that during the course of investigation, record is found to indicate that the present Applicant was Director of the said company. It is contended that there are statements of witnesses i.e. investors whose deposits were accepted however money was not returned/refunded to them.

5. During the course of hearing, specific query was raised by this Court to learned counsel for the informant as well as learned APP as to whether there is anything to show that after bifurcation of the companies in the year 2022, Applicant herein has any concern with the other branches. Undisputedly, the complaints/grievance are in respect of eight branches only. They were unable to point out any single complaint in respect of five branches, the business of which is being conduced by the present Applicant. Thus, merely because the Applicant happened to be the Director at the time of inception of the company, this Court cannot ignore subsequent events which indicate that he has no concern with the company in respect of which grievance is made by the investors.

6. Having regard to these facts, this Court finds prima facie no material to connect present Applicant with this crime. Hence, application is allowed in terms of the interim order.

(R. M. JOSHI)
Judge

dyb