**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**BAIL APPLICATION NO. 1031 OF 2024
WITH
CRIMINAL APPLICATION NO. 2885 OF 2024**

Balasaheb Nivrutti Kale
VERSUS
The State Of Maharashtra
...
Advocate for Applicant : Mr. Tanaji S. Solankar
APP for Respondent/State : Mr. S.P. Sonpawale
Advocate for Complainants/Investors : Mr. Ujwal Subhash Patil
...

CORAM : S.G. MEHARE, J.

DATED : AUGUST 13, 2024

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the complainants/investors.

2. The applicant seeks bail in Crime No.1146 of 2023 registered with Tophkhana Police Station, District Ahmednagar for the offence punishable under Sections 406, 409, 420 r/w 34 of the Indian Penal Code.

3. It has been alleged against the applicant that he invited the investors for investment. He executed the agreement with the investors. He introduced that he has the franchisee of Edelweiss Broker India Ltd. Company. He does good share trading. He was giving good returns to the investors. The investors fall prey to his promises and had invested a huge amount on his say. He also

executed an agreement with the investors that the trading amount would be opened in the name of the investors. or he would invest the money in the his or in company’s name. He would pay 5% per month returns. He paid some returns.

4. In the present case, the complainant alleged that after the agreement period was over, he went to demand his invested money, the applicant told him not to withdraw the money. He again promised that the market is hiking, so he would give more returns. When the complainant started demanding money repeatedly, he said that he was in bankruptcy. He told him that he cannot not repay the money. The investor/complainant may take action.

5. The police recovered many papers, and bank accounts of the investors and the applicant.

6. Learned counsel for the applicant would submit that it is not the case that the applicant never paid the returns to the investors. He referred to the bank accounts of his firm to show that it was a business of investment. The parties to the agreement agreed and allowed the applicant to invest either in his name or in the name of firm. It was a share investment scheme. The shares frequently hikes or fall down. The investors were made aware of this situation. He made the investors completely aware that the returns would be subject to the share market. He never intended to grab the money. The false

allegations of cheating and misappropriation of money have been levelled against him. Hence, he may be granted bail.

7. Learned APP and counsel for the investors have strongly opposed the application. They would submit that since inception, the applicant had the intention to cheat the investors and grab their money. Hence, he put the illegal clauses in the agreement to allow him to invest the money either in his name or in the name of investors. However, instead of doing so, he transferred a huge amount to the bank account of his son and wife, who were neither the directors nor office bearers of the company, the applicant was running. Around 124 investors who have been cheated. The huge amount of around Rs.13 Crores has been misappropriated. The applicant did not invest the amount in the share market as promised. His franchise has been cancelled. He is not able to give a statement of such a huge amount. He did not explain how and where he has invested the amount of the investors. The huge amount of material, including his bank statement and accounts, has been collected. The conduct of the applicant is self sufficient to believe that since inception, he has intention to cheat and cause the investor a loss.

8. In reply, the counsel for the applicant would submit that, as per the charge sheet, there were only 22 investors. Rest of the amount has been paid.

9. Perused the charge sheet. *Prima facie*, it appears that the applicant promised and motivated the investors to invest in the share market. He had a franchisee. It was supposed that the investment should be either in the name of the franchisee or in the name of the investors. The applicant has no explanation as to why he invested and transferred the money to the account of his son and wife. The accounts were opened in different financial institutions. A chart submitted by the learned APP shows that the applicant transferred Rs. 2,46,408555/- to his son's account and Rs.70,34700/- to the account of his wife. The chart further shows that the amount deposited in the account of his wife and son was withdrawn in cash. The police are investigating the money transferred to the account of his son and wife. The offence is apparently serious. There is sufficient material against the applicant. There is great possibility of involving in identical crime. To protect the interest of the poor investors henceforth and considering the gravity of the offence, this Court is of the view that this is not a fit case to grant bail. Hence, the application stands dismissed.

10. Criminal Application No.2885 of 2024 stands disposed of.

(S.G. MEHARE, J.)

Mujaheed//