



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

BAIL APPLICATION NO.2254 OF 2023

Shubham Kakasaheb Gawande

VERSUS

The State Of Maharashtra

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Advocate for Applicant : Mr. R.V. Gore

APP for Respondent : Mr. S.K. Shirse

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AND

BAIL APPLICATION NO.2295 OF 2023

Rajuddin Sirajoddin Maniyar

VERSUS

The State Of Maharashtra

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Advocate for Applicant : Mr. N.J. Sonune

APP for Respondent : Mr. S.K. Shirse

CORAM : S. G. CHAPALGAONKAR, J.

Dated : January 12, 2024

COMMON ORDER :-

1. The applicants in both these bail applications seek regular bail in connection with Crime No.412 of 2023 registered with MIDC Cidco police station, Aurangabad, District Aurangabad for the offences punishable under sections 406, 420, r/w 34 of the Indian Penal Code and u/s 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishment) Act, 1999. Their prayers for regular bail has been rejected by the learned Additional Sessions Judge vide order 1.12.2023.

2. Investigation has been set in motion on the basis of the information given by Smt. Shubhangi Devraj Dhotre, r/o N-5, Cidco, Aurangabad who alleges that, she is in the business of Beauty Parlour. Accused Sangita Kakasaheb Gavande was her customer. She introduced her with accused Rajuddin Maniyar, Shubham Gavande, Yogita @ Namrata Gavande. Accused Sangita took her in the office of accused Rajuddin Maniyar. All accused persons induced her to deposit a sum of Rs.1.00 Lakh under the pretext that she will get return of 5 Lakh within two months. The informant deposited such amount on 1.1.2023. Similarly, other accused persons namely Ashok Ghorpade, Sunita Deshmukh, Achyut Raut, Kanta Ukirade, Shrikanta Kavade have also deposit the amounts. The informant and others cumulatively made deposit of Rs.54,28,858/-. Accused persons initially assured to return of money, however, later on avoided to meet the depositors. Accordingly, crime no.412 of 2023 for the aforesaid offences came to be registered. The applicants have been arrested on 29.8.2023 and 31.8.2023. Since then, they are behind the bar. On completion of investigation, charge-sheet is filed.

3. Mr. R.V. Gore and N.G. Sonune, learned advocates appearing for the applicants vehemently contend that, although, there are allegations regarding deposit of huge amount by the complainant and others with the accused, there is no documentary evidence in support of such contention. They would submit that FIR nowhere disclose under what scheme depositors were lured to deposit the amount. Huge transactions alleged to have been made by depositors with the accused persons is not supported by any evidence. Except bare words of the complainant and other witnesses, no evidence could be collected in respect of the transactions in question. Learned

advocates invited attention of this Court to the seizure panchnama, which shows recovery of the car and meager cash amount from the accused Rajoddin. So far as accused Shubham is concerned, nothing incriminating could be recovered. The learned advocate appearing in BA No.2295 of 2023 points out that the applicant Rajuoddin has purchased a car much before the so-called period of transaction.

4. Learned A.P.P. vehemently opposes the prayer for grant of bail. He submit that the applicants in connivance with each other lured large number of innocent persons to make deposit of amount with assurance of exponential return. Total amount of Rs.54,28,858 is involved in the aforesaid crime. Charge-sheet is filed for offence punishable under sections 406, 420, 34 of the IPC as well as section 3 of the MPID Act.

5. Having considered the submissions advanced and on perusal of the material in the charge-sheet, it can be gathered that there is no material in the charge-sheet that would support alleged transactions between applicant-accused and first informant or other depositors. House search panchnama or bank statements of accused persons do not depict transaction of sizeable amount. There is no record in the form of messages or communications depicting alleged transaction with accused persons. In this background, except statements of the complainant and other witnesses who are alleging deposit of amount with the applicants, there is no other evidence by which allegations in the FIR can be supported. Even, it is not clear from the chargesheet as to what type of scheme was projected by the accused persons to lure depositors.

6. Although there are allegations regarding complicity of applicants in subject crime, material in the charge-sheet prima facie bereft to specify actual role played by applicants-accused. The statement of witnesses simply suggests that when complainant went to the office of accused Rajoddin alongwith all accused persons were found together in the said office. Prima facie, it is difficult to draw inference about actual role played by the applicants. The applicants are behind the bar for last five months. Investigation in the matter is complete. Charge-sheet is filed. Applicants detention cannot be continued for indefinite period since trial would take it's own course. In that view of the matter, case is made out for grant of bail. Hence, the following order.

O R D E R

- i. Bail Applications are hereby allowed.
- ii. The applicant – Shubham Kakasaheb Gawande in bail application no.2254 of 2023 and applicant Rajuddin Sirajoddin Maniyar in bail application no.2295 of 2023 be released on bail in connection with Crime No.412 of 2023 registered with MIDC Cidco police station, Aurangabad, District Aurangabad for the offences punishable under sections 406, 420, r/w 34 of the Indian Penal Code and u/s 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishment) Act, 1999 on their furnishing P.B.&S.B. of Rs.50,000/- (Rs. Fifty Thousand) by each of them, on the following conditions :-
 - a] The applicants in both bail applications shall not tamper the prosecution evidence.

- b] The applicant in both bail applications shall attend each and every effective date of hearing before the trial Court.
 - c] The applicant shall not indulge in similar offence.
- iii. Bail applications are accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE.

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