IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.2309 OF 2023

Chandrkant Balbhim Kale,
Age: 61 years, Occu: Retired,
R/o: Punarvasan Savargaon, Kallam
and Shikshak Colony, Kallam
Dist. Osmanabad. ..Applicant

Versus

The State of Maharashtra,
Police Station Officer,
Georai Police Station, Taluka Georai,
Dist. Beed. ..Respondent

WITH
CRIMINAL APPLICATION NO.4612 OF 2023
IN
BAIL APPLICATION NO.2309 OF 2023

MAHESH SHRIDHARRAO MAKAL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
...
Mr. S. S. Bora, Advocate for the Applicant.
Mr. S. K. Shirse, APP for Respondents-State.
Mr. S. E. Shekade, Advocate for Assist to APP in CA/4612/2023.
...
CORAM : S. G. CHAPALGAONKAR, J.

RESERVED FOR ORDER ON: 19th JANUARY, 2024
PRONOUNCED ORDER ON : 23rd JANUARY, 2024.

ORDER:-

1. The applicant seeks regular bail in connection with Crime No.391/2023 registered with Georai Police Station, Dist. Beed for the offences punishable under Sections 406, 409, 420, 120-B, 477-A of the Indian Penal Code and Sections 3 and 4 of the M.P.I.D. Act.

2. The investigation was set in motion on the basis of information given by Mr. Mahesh Makal, who alleges that

accused no.1-Dr. Vasant Dabhade is well-known ophthalmologist and he had family relations with the informant. In the month of April 2019, he had been to the house of the informant and told that accused no.1-Ajeet Kale, who is the Chairman of the Shrimantyogi Urban Nidhi Limited, Georai is an influential person and he has helped many to secure Government employment. Under the pretext of providing employment in health department to the wife of the informant, he was lured to pay the amount of Rs.18,00,000/- to Ajeet Kale i.e. accused no.1. Subsequently, under the pretext that due to Covid-19 situation, the Government has stopped recruitment accused persons shown inability to provided employment. When the informant asked for refund of the amount, the cheques were issued in his name, however, those were dishonored. It is further alleged that when informant had been to police station for lodging complaint about the cheating against the accused persons, he found that many other persons who are victim of the fraud at the hands of the accused, have approached to the police. It is alleged that the amount of Rs.90,00,000/- from different victims have been fraudulently received by the accused persons and the informant is personally duped to the amount of Rs.13,00,000/- by accused persons in connivance with each other.

3. The applicant came to be arrested in pursuance of the aforesaid crime on 30.07.2023. Since then, he is behind the bar. The applicant moved an application for regular bail prior to filing of the charge-sheet, which was rejected. The Bail Application No.1635/2023 was filed before this Court. However, it was withdrawn vide order dated 26.09.2023. After filing of the charge-sheet, the applicant had moved afresh before the Sessions Court for grant of bail. However, his application came to be rejected

vide order dated 13.12.2023. Hence, the present application.

4. Mr. Bora, learned Advocate appearing for the applicant would submit that the FIR is silent about involvement of the applicant in commission of the offence. The applicant is made accused only because he is father of accused no.3, who was the Chairman of the Shrimantyogi Urban Nidhi Limited, Georai. The applicant is neither the Director nor he has concern with the operations of the Bank. The applicant has no role to play in transactions between accused no.3 and the first informant. During the course of investigation, it is sought to be brought on record that the applicant has given cheques to some of the victims of the offence or paid bills towards paper publication issued by the other accused persons. However, that could not be sufficient to bring home complicity of the applicant in commission of the offence. He would submit that the applicant was a teacher and a pensioner aged about 60 years. Further he is behind the bar for almost six months by this date. Further detention of the applicant would not be necessary. Hence, he urges to release the applicant on bail.

5. The learned APP however strongly opposes the prayer for grant of bail. He would point out that the innocent persons have been duped by the accused persons by giving false assurances of providing employment in the Government department. Some of the accused persons were lured to make Fixed Deposits with the Shrimantyogi Urban Nidhi Limited, Georai under the pretext of exponential returns. The family members of the applicant were Directors of the Bank. The huge amount of Rs.1,03,00,000/- is involved in the offence. He would point out that the applicant was the expert Director. The record

shows that he has withdrawn cash amount of Rs.1,75,140/-from bank. As many as 10 witnesses have recorded their statements against the applicant. Further the applicant has given cheques worth Rs.46,00,000/- to victims of offence from his account and those have been dishonored. The total amount of Rs.6,15,000/- was seen to be transferred from RBL Bank to the bank account of the applicant. The Current Account of the Shrimantyogi Urban Nidhi Limited, Georai was maintained by RBL Bank at Aurangabad, which has been used for siphoning of amounts. The transactions in Bank account clearly depict involvement of the applicant in crime alongwith other accused persons.

6. Having considered submissions advanced, apparently the allegations in the FIR shows the serious fraud has been executed by the accused persons, thereby duping large number of innocent persons. However, the contents of the FIR are absolutely silent regarding role of the present applicant. The informant was lured by the accused Ajeet Kale and Dr. Vasant Dabhade to part huge amount under the pretext of providing Government employment to the informant's wife. No role is attributed against the applicant in that transaction. During the course of investigation, it is surfaced that the large number of persons were duped in similar manner and they were also made to make deposits with the Shrimantyogi Urban Nidhi Limited, Georai by way of Fixed Deposits with assurance of exponential returns. The contents of the charge-sheet would show that the applicant/accused is father of the prime accused i.e. Ajeet Kale, who was Chairman of the Bank. The charge-sheet alleges that the accused/applicant was the expert Director of the Bank. However, there is no concrete material in support of such contentions. Even it is assumed that the applicant was the expert

Director, it is difficult to hold that he was having control over day to day administration or businesses of the Bank. It is true that the family members of the applicant were Directors, but that itself would be insufficient to bring home role of the applicant in commission of the offence.

7. The learned APP has pointed out that in all amount of Rs.6,15,000/- have been transferred in the name of the applicant from bank account of Shrimantyogi Urban Nidhi Limited, Georai maintained with RBL Bank at Aurangabad and there are some entries depicting transfer of Rs.2,35,000/- and 1,75,140/- in cash to the applicant. However, such allegations are not shown to be related with transactions in present crime. Prima facie, the material contained in the charge-sheet is bereft to draw inference that the applicant was directly involved in commission of the offence. The possibility of some transactions made in his name by other accused person cannot be ruled out. The learned APP points out that the applicant had issued cheques in the name of different persons from his account. The learned Advocate appearing for the applicant submits that although allegation is made that such cheques are dishonored, no complaint under Section 138 of the Negotiable Instrument Act is filed by anyone of them. In this background, it would be difficult to believe that the applicant had issued such cheques towards discharge of his liability in respect of transactions, which are subject matter of the present crime.

8. On prima facie consideration of the material on record, the possibility that the applicant has taken some steps to dilute the grievance of the depositors against his son and other family members cannot be ruled out. It is also possible that

because of the applicant is father of the main accused, some grievance is raised against him.

9. In any case, whether applicant was involved in commission of the offence will have to be found out during full-fledged trial. It appears that, the applicant is behind the bar for approximately six months. He is aged about 61 years. Since he is neither Director of the Bank nor his role is attributed in FIR, it would not be necessary to continue his further detention. Hence, case is made out for grant of bail. Hence, the following order:

ORDER

(i) Bail Application is allowed.

(ii) The applicant, Chandrkant Balbhim Kale be released on bail in Crime No.391/2023 registered with Georai Police Station, Dist. Beed for the offences punishable under Sections 406, 409, 420, 120-B, 477-A of the Indian Penal Code and Sections 3 and 4 of the M.P.I.D. Act on furnishing P.B. and S.B. of Rs.1,00,000/- (Rs.One Lakh only) each on following condition:

a. The applicant shall not tamper with the prosecution evidence in any manner.

b. The applicant shall attend concerned police station twice in a month i.e. on 1st and 3rd Monday for a period of six months from the date of his release.

c. The applicant shall attend each and every effective date of hearing before the Trial Court.

(iii) Application is disposed of.

(iv) Criminal Application No.4612/2023 for assist to APP is accordingly allowed and disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/December-2023