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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1998 OF 2023**

Rahul Ramesh Bhosale

.....Applicant

Vs.

The State of Maharashtra

.....Respondent

Mr. Aniket Nikam i/b Mr. Amit Icham for the applicant

Ms. S. G. Talhar, APP for the respondent-State

Ms. Pallavi Yadav, API, Shahupuri Police Station, Kolhapur

CORAM : GAURI GODSE, J.

DATE : 11th DECEMBER 2024.

ORDER:

1. This application is for seeking pre-arrest bail in connection with C.R. No. 488 of 2023 dated 24th April 2023 registered with the Shahupuri Police Station, Kolhapur, for the offences punishable under sections, 406, 420, 468, 471 read with 34 of the Indian Penal Code and Section 3 of The Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 ('MPID Act'). In view of the administrative notice dated 8th February 2024, this application is listed before me, alongwith Anticipatory Bail Application No. 2111 of 2023 filed by the accused.

2. By order dated 16th May 2023, learned Sessions Court has

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rejected the application for anticipatory bail. Learned counsel for the applicant submits that the applicant works as a provident fund consultant and thus was acquainted with accused no. 1 Pooja Bhosale who was running the Trust. He submits that considering the offer given by Pooja Bhosale, he offered to provide his professional services to Pooja Bhosale. He submits that even the applicant had invested by making payments to Pooja Bhosale. He submits that since there was no response from Pooja Bhosale, he had already filed a complaint before Deputy Superintendent of Police, Kasba Bawda, Kolhapur on 31st October 2022. He submits that in the said complaint, he had explained in detail with regard to the offer given by Pooja Bhosale. He submits that though on many occasions, the applicant had asked Pooja Bhosale regarding provident fund compliance, she kept on insisting to concentrate on the business and told him that if he gives her business, she would provide better financial prospects. He submits that on the assurance given by Pooja Bhosale, the applicant had agreed to provide his services for the investments that would be made in the Trust.

3. Learned counsel for the applicant submits that since there was no response from Pooja Bhosale, he filed a detailed complaint in the

police station. Learned counsel for the applicant submits that the amounts received by him from the investors was already transferred by him to the account of Pooja Bhosale. He submits that all the particulars regarding transferring the amount is stated by him in the complaint. He submits that out of an amount of ₹4500/- received from the investors, only an amount of ₹600/- was retained by him for his professional service and rest of the amount was transferred to the personal account of Pooja Bhosale. He submits that the amounts received by him are already deposited in this Court to show his bonafides. He further submits that the applicant has cooperated in the investigation and provided all the necessary information available with him. He therefore, submits that custodial interrogation would not be necessary.

4. Learned APP submits that though the applicant has attended the police station, he has not cooperated in the investigation. She submits that forged fixed deposit receipts of IDBI bank were shown to the complainants and they were induced to invest the amount in the Trust. She submits that statements of 50 victims are recorded which shows involvement of the present applicant in the entire fraud. She further submits that due to non-cooperation of the applicant, the investigation

with regard to the forged fixed receipts prepared by the accused is still not completed. Learned APP further submits that in view of the allegations made in the offences under the MPID Act, allegations in the FIR cannot be segregated so far as the present applicant is concerned. Learned APP has placed the copies of the statements for my perusal. I have perused the said statements. The allegations made by the complaints are not against only one of the accused. Allegations indicate involvement of all the accused inducing the complainants and other investors for investing the amount in the Trust. Learned APP therefore submits that the complaint is not with respect to one of the accused but there are specific allegations in respect of receiving the amount from the investors by showing them fabricated fix deposits of IDBI bank to indicate that the Trust had sufficient funds and therefore the complainants are made to invest in the Trust with a hope to get substantial returns.

5. I have carefully considered the submissions. I have perused the allegations in the FIR and the statements relied upon by the learned APP. I have perused the complaint filed by the present applicant. The contents of the complaint filed by the present applicant indicates that it is the applicant's contention that nobody was pressurised to enroll the

amount and everything was explained and the amounts were invested as per the free will and liberty of the investors. The applicant's complaint further states that the risk factors were known to everybody and that the applicant started explaining the plan to his contact persons that if anyone wants to take risk, then can invest ₹4500/-. The complaint further states that the applicant's interest was developed more in the project and he decided to help and generate business for Nirvana Trust. The applicant's complaint further reveals that there were negotiations between the applicant and Pooja Bhosale with regard to managing the amounts received from the investors. The applicant's complaint further reveals that the applicant had transferred the amounts received from the investors to the personal account of Pooja Bhosle. The applicant's complaint nowhere indicates that any efforts were made to secure the amount received from the investors in the account of the Trust. The main allegation against the applicant regarding accepting the amounts in the name of Trust is not disputed by the present applicant. However, his complaint indicates that the amounts received from the investors were transferred to the personal account of Pooja Bhosale.

6. On perusal of the allegations in the FIR and the nature of

allegations shows equal involvement of the present applicant in accepting the amount from the investors in the name of the Trust by showing forged and fabricated fixed deposits of IDBI bank which induced the complainants to invest the amounts in the Trust. The contents of the applicant's complaint indicates involvement of the present applicant in the transactions of the Trust. The learned Sessions Judge while rejecting anticipatory bail application refers that the applicant is a provident fund consultant for 191 employees of Nirvana Trust. The learned Judge has further observed that the transactions of crores of rupees is involved as per statement made by the investigating officer. Considering the involvement of the applicant in the entire working of the Trust, learned Sessions Judge has rejected the application for anticipatory bail.

7. Learned counsel for the applicant submits that the applicant was granted interim protection by this Court on 21st July 2023 which is continued till now. He submits that since the applicant has cooperated in the investigation and the interim protection is operating for so long, the same may be confirmed. I do not find any substance in the submissions, that only because the interim protection has remained operative for a long time, the applicant would be entitled to anticipatory

bail. The learned APP has submitted that the applicant has not cooperated in the investigation and the investigation about the source of the forged documents is still not complete.

8. A perusal of the statements placed on record by the learned APP and the allegations made in the FIR, the role and the involvement of the applicant in the entire working of the Trust is seen. Thus, the applicant's involvement in the forged FD receipts cannot be ruled out at this stage. Thus, in view of the serious allegations against the applicant, and the large number of investors being affected, the possibility of huge amount being fraudulently taken from the investors and transferred to Pooja Bhosale, also cannot be ruled out. Hence, in view of the aforesaid, custodial interrogation would be necessary.

9. Hence in view of the aforesaid, I do not find any reason to confirm the interim protection granted by this Court.

10. Hence, application for anticipatory bail is rejected .

11. Learned APP is at liberty to make appropriate application with regard to the amount deposited in this court by the applicant.

[GAURI GODSE, J.]