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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2111 OF 2023

Bharat Shripal GatApplicant

Vs.

The State of MaharashtraRespondent

Mr. Piyush Toshnival for the applicant
Mr. S. G. Talhar, APP for the State
Ms. Pallavi Yadav, API, Shahupuri Police Station, Kolhapur

CORAM : GAURI GODSE, J.

DATE : 11th DECEMBER 2024.

ORDER:

1. This is the second application 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').

2. By order dated 17th May 2023, anticipatory bail application was

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rejected by me. Hence, the second bail application is listed before me.

3. Learned counsel for the applicant submits that after the anticipatory bail application was rejected on 17th May 2023, applicant had filed special leave petition in the Hon'ble Apex Court which was dismissed on 2nd June 2023. He submits that thereafter, the applicant filed anticipatory bail application before the Sessions Court which is rejected on 14th July 2023. Learned counsel for the applicant submits that co-accused Rahul Bhosale filed a separate application in this court seeking pre-arrest bail. He submits that Rahul Bhosale deposited an amount of ₹1,03,076/- in this Court. He submits that this Court granted interim protection to Rahul Bhosale. Hence, in view of these change in circumstances, the applicant has filed this second anticipatory bail application.

4. Learned counsel for the applicant submits that the applicant was engaged as an advocate for the legal services of Nirvana Trust. He submits that the main accused Pooja Bhosle was in need of personal loan for which the applicant had paid her an amount of ₹1,50,000/-. He submits that the applicant has never received back the said amount from Pooja Bhosale. He further submits that there is no allegation against this applicant that he has received any amount from the

investors or the complainants. Learned counsel for the applicant submits that he has cooperated in the investigation and there is no allegation against him that he has not complied with any of the requisitions issued by the investigating officer. Learned counsel for the applicant submits that without prejudice to the rights and contentions of the applicant, to show his bonafides, he is ready to secure the amount of Rs. 1,38,600/- alleged to have been accepted by the applicant in cash. He submits that there is no requirement of custodial interrogation. He therefore, requests that the interim protection granted by this Court be confirmed.

5. 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 complainants 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 make them believe that the Trust had sufficient funds and therefore the complainants invested in the Trust with a hope to get substantial returns.

6. I have carefully considered the submissions. On perusal of the allegations in the FIR and the statements produced on record by the learned APP, it cannot be said that the applicant is not involved in the entire fraud. Though the applicant's services might have been engaged as an advocate, but there are allegations which indicate that he was involved in the entire activities with regard to preparing the fraudulent fixed deposit receipt and the documents and agreements as promised by Pooja Bhosale to the investors. The FIR and the

statements relied upon by the learned APP shows specific allegations in respect of receiving the amounts from the investors by showing the fixed deposit receipts of the Trust. Preparation of the agreements and its notarisation concerns the allegations against the applicant who was working as an advocate. Therefore, on perusal of the entire record, I am of the prima facie view that there are specific serious allegations against the applicant.

7. I do not find that the statement made by learned counsel for the applicant that the applicant is ready to secure the amount alleged to have been accepted by him as a genuine assurance. The same cannot be considered as a ground for grant of anticipatory bail. The allegations are serious in nature with respect to investment of huge amounts collected from various investors. Learned APP submits that the investigation is still not complete and the investigation about the source of preparation of the forged documents is necessary.

8. In view of the gravity of the matter and the seriousness of the allegations, custodial interrogation of the applicant is warranted. After the first application was rejected, I do not find any change in circumstances with regard to the stage of investigation. Hence, the arguments made on the ground of change in

circumstances is not sufficient to confirm the interim protection granted by this Court.

9. Hence, for the reasons recorded above, the application is rejected.

[GAURI GODSE, J.]