IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.947 OF 2024

Namdev Ankush Gaikwad …..Applicant
Versus
State of Maharashtra …. Respondent

Mr. Sanjeev Kadam, Advocate a/w. Mayur Sanap, Chandarani Gore i/b. Prashant Raul for the Applicant.
Smt. M.H. Mhatre, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 08th APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R. No.92/2024 registered at Bharati Vidyapeeth Police Station, Pune on 27.1.2024 under Sections 406, 409, 420 read with 34 of IPC and under Sections 3 & 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

2. Heard Mr. Sanjeev Kadam, learned counsel for the Applicant and Smt. M.H. Mhatre, learned APP for the Respondent-State.

3. The FIR is lodged by one Digambar Gaikwad. He has stated that he met the present Applicant and his wife Rajashree on 25.8.2022. The Applicant's wife told him that if the informant invested in Forex Trading, he could earn 20% amount by way of monthly returns. The Applicant and his wife called the informant to their native village Kolaki, Taluka Phaltan to see the set up. The informant went there on 26.8.2022. They gave information about various Forex Trading on the computer screen. The informant was impressed. He thought about it. The informant, his brother-in-law and one Mule decided to invest in Forex Trading. The Applicant and his wife called the informant to Satara for a meeting. There they introduced the informant with the other accused Rupali, Anil and Hanumant. They told the informant that those persons were the owners of Creation Traders And Developers LLP. He was again told that he could get 20% to 25% interest per month. The FIR further mentions that on 30.8.2022, the informant went to the Applicant's house at Kolki and handed over Rs.10 Lakhs to

the Applicant. At that time the informant's colleague Mule was present. It is specifically mentioned that the Applicant told the informant that he would pay 20% returns per month either on line or through cash and if the informant invested more amount he would pay more returns. In September, 2022 the informant met Hanumant More and Rupali Chavan. At that time, even the other investors were present with the informant. The FIR goes on to mention that other investors also similarly invested and the total investment was to the tune of Rs.3,25,08,000/- . This amount was misappropriated and on this basis the FIR is lodged.

4. Learned counsel for the Applicant submitted that his wife Rajashree is granted anticipatory bail by this Court vide order dated 22.3.2024 in A.B.A. No.796/2024. The only difference in the role of the Applicant and his wife is that there are allegations that the Applicant had actually received the cash amount of Rs.10 lakhs as mentioned in the FIR.

5. Learned counsel submitted that the Applicant is willing to deposit that amount in the Court. He further

submitted that the offence is committed by the other accused who have accepted various amounts from the investors. The Applicant is not involved in their business. The money is allegedly misappropriated by the other accused. The present Applicant is not a beneficiary.

6. Learned APP opposed these submissions. She produced the investigation papers before me. She further submitted that it was not an issue concerning the first informant alone but there were other investors who were similarly cheated and the amount involved is huge.

7. I have considered these submissions. I have perused the investigation papers. There are certain statements which are required to be referred to in this particular order. There is a statement of one Pravin Pingale. He has stated that he had paid Rs.7 Lakhs in cash to the present Applicant in the presence of his wife Rajashree and other co-accused Hanumant, Anil and Rupali. That amount consisted of the amounts given by Jaywant Rode, Vijay Padghankar, Sandip Bhol and Pravin Pingle himself.

8. Another victim Swaroopkumar Bhalke has statsed that representation was made by the Applicant and his wife. Thereafter this witness had deposited that amount of Rs.2,98,000/- in the bank account of which the details were sent by the present Applicant. These details were sent by the Applicant through WhatsApp message.

9. Similar statement is given by Babita Bhotre about depositing Rs.4 Lakhs in the account, of which the details were sent by the Applicant on WhatsApp.

10. Ramesh Yevalie has given a similar statement against the present Applicant. The statement of Vijay Padghankar mentions that he himself had handed over Rs.17 Lakhs to the present Applicant in the presence of Digambar Gaikwad, Ramesh Yevale and Jaywant Rode. Sanjay has stated that Rs.20 Lakhs was given to the present Applicant and his co-accused.

11. Thus, the aforesaid material shows the Applicant's deep involvement in the offence. It is not a

matter of the investment made by the first informant alone, but, as mentioned earlier, the other investors have also invested not only at the instance of the present Applicant, but these huge amounts were also handed over to him. Some other amounts are transferred in the bank accounts of which the details were provided by the present Applicant.

12. Considering this incriminating material and the gravity of the offence, the custodial interrogation of the Applicant is necessary. He cannot be protected under Section 438 of Cr.P.C. The Application is rejected.

(SARANG V. KOTWAL, J.)

PRADIPKUMAR PRAKASHRAO DESHMANE

Digitally signed by PRADIPKUMAR PRAKASHRAO DESHMANE Date: 2024.04.16 11:22:29 +0530