IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3755/2023

SINDHU RAJARAM BAGDE
@ SOU. NILIMA CHANDRABOSE DESAI ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Kuldeep Patil a/w Saili N. Dhuru for the Applicant.
Mr. B. B. Kulkarni, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : MARCH 14, 2024

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Sections 420, 406, 409, 120-B, 201, 174-A read with 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999, registered on 09/11/2004 vide C.R. No.137 of 2004 with Khed Police Station.

3. At the outset, I must refer to the order passed by this Court in respect of this very applicant while granting her bail in Bail Application Nos.946 of 2023, 947 of 2023, 953 of

2023, 954 of 2023, 1142 of 2023, 1292 of 2023 and 1295 of 2023. There are as many as 17 First Information Reports (FIRs) registered against the applicant at the behest of various investors. The relevant portion of the order dated 06/10/2023, passed in the aforesaid Bail Applications while granting bail to the applicant, reads thus:

> "2. These bail applications are decided by a common order. The details of the accusations are as follows.

No.	Sections	Cr.No and Dt.	Police Station
BA/ 946/2023	409, 420, 34 of Indian Penal Code ('IPC' for short) 3 of Maharashtra Protection of Investors and Depositors Act, 1999 ('MPID', for short)	59 of 2003 06/12/2003	Pali, Raigad
BA/ 947/2023	409, 420, 34 of IPC 3 of MPID	25/2003 09/12/2003	Shreevardhan, Raigad
BA/ 953/2023	409, 420, 34 of IPC 3 of MPID	15/2006 10/02/2006	Mahad, Raigad
BA/ 954/2023	409, 420, 34 of IPC 3 of MPID	6/2004 21/01/2004	Goregaon, Raigad
BA/ 1142/2023	409, 420, 34 of IPC 3 of MPID	95/2003 03/12/2003	Nagothane, Raigad
BA/	406, 420, 120B	69/2004	Panvel City,

1292/2023	of IPC 3 and 4 of MPID	16/02/2004	Raigad
BA/ 1295/2023	409, 420, 34 of IPC 3 of MPID	52/2004 08/04/2004	Uran, Raigad

3. Learned APP vehemently opposed the application for bail. At the outset, learned APP submitted that as many as 17 FIRs are registered against the applicant and 23 FIRs were registered against her husband. Though the first FIR was registered in 2003, the applicant was absconding. The applicant's husband who is also the accused was arrested and subsequently enlarged on anticipatory bail in some cases and regular bail in other cases. It is submitted by learned APP that the applicant was always aware of the FIRs which are filed. The applicant was absconding. The proclamation was issued in all 17 cases. Looking at the conduct of the applicant, learned APP submitted that no indulgence should be shown to the applicant.

4. The notice under section 41A was issued to the applicant. The applicant appeared in the year 2022 and joined the investigation. The applicant was arrested on 12/08/2022. The prosecution case is that the applicant and her husband were the Directors of the company called 'Adhunik Bhuvikas Ani Grihanirman Vittiya Company Ltd.'. The applicant was inducted as a Director of the Company in the year 1987 and continued to be a Director upto 1998. Various depositors were promised returns on their investments as well as facilities of loan. The investors are very poor and they had invested their hard earned money ranging from Rs.50/- to Rs.70/- per day in the scheme floated by the Company in which the applicant was the Director. It was revealed that on 06/07/1997, the Company applied for registration under the Reserve Bank of India Act, 1934, but as Company's net-worth was less than Rs.25 Lakhs as per the RBI norms, the application for registration was pending with RBI. RBI asked the Company to rectify the errors, but the Company failed to fulfill the instructions as per RBI norms. The accusation is that to continue the

business of the Company, the founder Director-Chandrabos Ramlal Desai decided to change the name of the Company to 'Adhunik Gruhnirman Vittiy Corporation Ltd.' During the course of investigation, it was revealed that on 20/09/2000, the Director of the said Company applied towards 'National Housing Bank' for Housing Finance Institution. The National Housing Bank accepted their application and on 31/03/2003 gave permission to the Company on the condition that the Company should not accept the deposits. But the Company violated the condition and continued to accept the deposits. Therefore on 17/02/2004, National Housing Bank cancelled the Certificate. During the course of investigation, it was further revealed that the Company failed to return deposits of the investors. Hence, 23 cases all across Maharashtra are registered against the Company in which total fraud alleged is of Rs.11,17,11,891/- and total number of depositors/victims are 41,296. The details of the FIR are set out in the affidavit filed by the investigating agency.

5. Learned APP further pointed out that the record of the Company shows that the applicant as the Director in Form no. 32 of ROC as also in Form no. 20. It is the case of the prosecution that the applicant continued to actively participate in the functioning of the new company and induced the investors to make deposits for which they did not pay their returns. Furthermore, it is submitted that the applicant has since filing of the FIRs absconded. It is further submission of the learned APP that from the deposits made by the investors, the applicant had purchased immovable properties. It is the submission of the learned counsel for the applicant that whatever properties the applicant possesses has been disclosed to the investigating agency.

6. The house property of the applicant is at Nagpur which is the subject matter of the liquidation. The liquidator has been appointed. The worth of the said property as per the valuer is Rs.5 Crores. Learned counsel for the applicant submitted that the applicant has no objection if the investigating agency in accordance with law proceeds with the attachment of

> whatever movable and immovable properties the applicant has. The statement is accepted as an undertaking to this Court. The investigating agency to proceed accordingly. No doubt, something needs to be said about the conduct of the applicant. To that extent learned APP is justified in making the grievance. The fact however remains that pursuant to the notice under section 41A, the applicant has attended investigating officer and joined the investigation. The applicant was arrested thereafter. The applicant is a woman and now is in custody for more than 13 months with no possibility of trial concluding any time soon. Furthermore, the property of the applicant which as per the government valuer is worth Rs. 5 Crores, is already the subject matter of the attachment/security. Learned counsel for the applicant has made a statement on instructions of the applicant that the applicant will have no objection if any of the movable or immovable property which she possesses is attached by the investigating agency. Taking an overall view of the matter, despite vehement opposition of learned APP, I am inclined to enlarge the applicant on bail.
>
> 7. I find, prima facie, that the applicant was the Director of the earlier Company for the period from 1987 till 1998. Prima facie, major deposits are made for the period post 2000 in respect of new Company in which the applicant is not the Director. The applicant's husband was the Director of the new Company. The investigation is complete. Charge-sheet is filed."

4. Though learned APP opposed the present application, in my view, the observations in the aforesaid order will apply to the present application as the present offence is lodged at the instance of one of the investors while the other FIRs are registered at the instance of other investors. The applicant is a woman in custody since 12/08/2022 in connection with aforesaid FIRs and the present FIR. The investigation is complete and the charge-sheet is filed. Hence, the following order :-

<u>O R D E R</u>

(a) The application is allowed.

(b) The applicant- Sindu Rajaram Bagde @ Nilima Chandrabose Desai in connection with C.R. No.137 of 2004 registered with Khed Police Station shall be released on bail on her furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.

(d) The applicant shall attend the Investigating Officer of Khed police station once in a month, first Monday of every month, between 11.00 a.m. and 1.00 p.m.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) On being released on bail, the applicant shall furnish her contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicant shall not leave the State of Maharashtra without prior permission of the trial Court.

(h) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(i) The applicant shall surrender her passport to the investigating officer if not already surrendered. If the applicant does not have a passport, the applicant shall file an affidavit before the trial Court to that effect.

5. The application is disposed of.

(M. S. KARNIK, J.)

Signed by: Darshan Patil
Designation: PA To Honourable Judge
Date: 14/03/2024 19:56:48