IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4198/2023

BHAGWAN DNYANEDEV AHER ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Kuldeep U. Nikam a/w. Adv. Prasad Avhad, Adv. Samadhan Ghumare for the applicant.
Mr. S. H. Yadav, APP for the State.
PI Sudarshan Waghmare, EOW, Nashik (R).

CORAM : M. S. KARNIK, J.

DATE : APRIL 23, 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 406, 408, 409, 420, 467, 468, 380, 120-B of the Indian Penal Code (hereafter ‘IPC’ for short) read with Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (hereafter ‘MPID Act’ for short) registered on 13/7/2022 vide C.R. No.I 170/2022 with Deola Police Station, Nashik.

3. The applicant had, on the earlier occasion, filed an application for bail. By an order dated 25/9/2023, the application was allowed to be withdrawn with liberty to apply after six months. Pursuant to the liberty granted, the applicant had filed the present application on 20/12/2023 indicating that he proposes to show his bonafides by depositing the amount of Rs.13 lakhs which as per the charge-sheet is the amount credited to his account. However, I refrained from entertaining this request at that juncture as I did not find any reason to curtail the period of six months stipulated in the order dated 25/9/2023. Learned counsel, therefore, had requested that the hearing of the application be deferred. Now that the period of six months is over, the application is heard.

4. The applicant was arrested on 14/7/2022. The case of the prosecution is that the informant Mr. Shriram Vasant Bhor who is working as Regional Registrar, Bank of Maharashtra, Malegaon, lodged the complaint alleging that the present applicant who was working as a sweeper on daily wages, the co-accused Amit Sharma who was working as a Branch Manager, Ashish Singh who was an employee of the bank and Appa Sonawane who was working as a cashier, formed a criminal conspiracy and by gaining faith of the customers of the bank accepted the cash amounts which was to be deposited in their savings bank account. The accused prepared bogus and fabricated FD receipts of the customers showing them as genuine FD receipts and thereby cheated various customers of the bank. This resulted in wrongful gain to the accused and in turn wrongful loss to the bank customers.

5. So far as the present applicant is concerned, while serving as a sweeper on daily wages, it is alleged that he induced the customers of the bank by helping them to fill the bank related forms, withdrawal slips, cheques, FD, etc. The customers reposed trust in the applicant. Thereupon, they gave cash and cheques to the applicant for depositing the same into their accounts. The applicant breached the trust of the customers by making use of the said amounts for his wrongful gain. It is alleged that an amount of Rs.13,81,430/- was transferred to the bank account of the applicant. It is alleged that various other amounts were also received by the applicant by way of UPI payments.

6. Learned counsel for the applicant submitted that the amount of Rs.13,81,430/- is a part of the savings and deposits from the personal income of the applicant which he can account for. It is further submitted that there are no other materials on record to indicate the involvement of the applicant. Learned counsel for the applicant submitted that the applicant is working as a sweeper and his financial condition is not sound. However, to show his bonafides and without prejudice to his rights and contentions, the applicant is willing to deposit a sum of Rs.13 lakhs with the bank. Learned counsel of the applicant, on instructions, submitted that the said amount will be deposited within a period of six weeks from today. The said amount be invested by the bank in an account which shall be subject to the outcome of the trial. Statement is accepted. The applicant to abide by the Statement.

7. Learned APP submitted that the farmers and small types of depositors are duped for Rs.2.41 crores. It is submitted that the applicant is a mastermind.

8. Considering that the applicant is in custody for more than one year and nine months and as the trial is unlikely to conclude soon, I am inclined to enlarge the applicant on bail but by imposing conditions. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk. The applicant has agreed to abide by the condition to deposit Rs.13 lakhs. Hence, the following order :-

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

(a) The application is allowed.

(b) The applicant- Bhagwan Dnyanedev Aher in connection with C.R. No.I 170/2022 registered with Deola Police Station, Nashik, shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more local 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 Deola police station once in a month every first Monday of the 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 his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

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

(h) In the event, the applicant has passport, the same shall be deposited with the trial Court. If he does not possess any passport, he shall file an affidavit in that regard before the Trial Court.

9. The application is disposed of.

(M. S. KARNIK, J.)