IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4263 OF 2023

VISHNU DEVRAM BARHATE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Akshay Bankapur for the applicant.
Smt. Megha S. Bajoria, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : APRIL 18, 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, 409, 420, 120-B read with 34 of the Indian Penal Code (hereafter 'IPC' for short) and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, ("MPID Act", for short) registered on 07.11.2022 vide FIR bearing C.R. No.302 of 2022 with Yeola City Police Station, Nashik.

3. The applicant is the accused No.3. The applicant was arrested on 10.01.2023. The applicant was working as a Manager in Janata Nagari Sahakari Patsanstha Maryadit, Yeola. In brief, it is the case of the prosecution that there has been economic irregularity and misappropriation of amount of Rs.29,02,46,415-31 ps (Rupees Twenty Nine Crores Two Lakhs Forty Six Thousand Four Hundred Fifteen, Thirty One Paise only) in the Society. Deposits were received from the public by giving assurance of payment of exorbitant rate of interest on it i.e. 11% to 13.50%. It is the case that deposits are received in contravention of rules. No proper security was taken while giving loan. No details of insurance policies were considered while giving loan on the basis of said policies. So far as the present applicant is concerned, he was arrested on 10.01.2023.

4. Learned APP while opposing the application for bail submitted that the Chairman is enlarged on bail on medical grounds. So far as the Vice Chairman is concerned, he is still absconding. Learned APP invited my attention to the affidavit-in-reply. He submits that considering the magnitude of the offence and co-depositors have been deprived of their hard-earned money, this is not a fit case where the applicant be enlarged on bail. It is submitted that the applicant's complicity can be very well seen in the present crime as the applicant was Manager at the relevant time and it was the applicant who was responsible for making false entries at the behest of the Board of Directors. Learned APP invited my attention to the accusations so far as the applicant is concerned. Paragraph 7 to 14 of the affidavit-in-reply reads thus :-

> "7. I say that during the course of investigation, it is revealed that the Applicant/Accused while working as a 'Manager' in the said Pathsanstha, since the financial year 2012 the said Pathsanstha was in loss and the Chairman, Director and its Board of Directors created fake financial sheets showing false income to avoid showing the loss. By taking approval from the members in the Annual General Meeting from time to time, the real and actual situation has been hidden from the members and depositors and they have been cheated the investors of the said Pathsanstha.
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> 8. I say that during the course of investigation, it is revealed the present Applicant / Accused in connivance with the Chairman, Vice Chairman, Board of Directors and Cashier of the said Pathsanstha, when there was a loss of Rs.14,37,90,000/-. during the ban period from 2012 to 2019, the said Credit Institution has fraudulently accepted deposits from the depositors by showing the lure of excessive interest rate of Rs.17,86,41,000/- and did not return the deposits.
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> 9. I say that during the course of investigation, it is revealed that the Applicant/Accused made a bogus Loan Interest Accounts by entering the record of an amount of Rs.1,62,50,156/- and shown profit time to time, infact no any amount was collected from any one, the general ledger were

prepared.

10. I say that during the course of investigation, it is revealed that in order not to show loss in the said Pathsanstha, a total of 176 borrowers on loan accounts amount of Rs.94,06,993/- through illegal and false entries on loans amounting to Rs.9,49,47,435/- have been shown to be outstanding.

11. I say that during the course of investigation, the bank account of Applicant/Accused viz. Bank of India, Yeola Branch, A/c. No. 081710110005985 came to be freezed and the remaining amount is Rs.9,313/-.

12. It is pertinent to note that the present Applicant Accused collision with main Accused i.e. Accused No. 2 Daulatrao Thakare (Founder of the said Pathsanstha) and Chairman viz Diganbar Wade by showing false balance sheets required for the audit, they prepared false financial sheets and pretended that the credit institution was in profit and defrauded them by accepting deposits from the investors.

13. I say that the main role of the present Applicant/ Accused is that he alongwith co-accused prepared various false reports and created aura of sound position of the society and therefore cheated various investors by hatching criminal conspiracy.

14. I say that prima facie it revealed the involvement of the present Applicant/Accused in commission of the aforesaid offence I say that the investigation in respect of misappropriation of the amount as well as calling investors is still going on. Huge amount has been duped, due to which, depositors are unable to get back their deposits. I say that the fraudulent intention existed, since the inception. I further say that it is an economic offence."

5. It is not the case of the prosecution that the applicant is a beneficiary. Learned counsel for the applicant submitted that at the highest the applicant can be said to have acted at the behest of Board of Directors who are the prime accused. In my opinion, the applicant being a Manager, cannot shunt his responsibility. The maximum punishment provided for the offence punishable under Section 3 of the MPID Act is imprisonment for a term which may extend to six years and with fine which may extend to one lakh of rupees. In the facts and circumstances of the present case considering that the applicant is in custody for more than one year and three months the applicant can be enlarged on bail. The investigation is complete and the charge-sheet has been filed. The applicant does not appear to be a flight risk. Hence, the following order :-

O R D E R

(a) The bail application is allowed;

(b) The applicant-Vishnu Devram Barhate in connection with C.R. No.302 of 2022 registered with Yeola City Police Station, Nashik shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- 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.50,000/- for a period of 6 weeks in lieu of surety;

(d) The applicant shall attend the Investigating Officer of Yeola City Police Station, Nashik 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) The applicant shall surrender his passport to the Investigating Officer.

6. The bail application is disposed of.

(M. S. KARNIK, J.)