

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 964 OF 2024

Devendra Pandurang Gaikwad

... Appellant

Versus

The State of Maharashtra And Anr.

... Respondents

Mr. Mayuresh Modgi *for the Appellant.*

Ms. Anuja S. Gotad, *APP for Respondent No.1-State.*

Mr. Ritesh Thobde, *appointed for Respondent No.2.*

Mr. Pushkaraj Suryawanshi, Sub Divisional Police Officer, Mangaon Division (IO) Police Station is present.

CORAM : SANDEEP V. MARNE, J.

DATE : 27 NOVEMBER 2024.

P.C. :

1) This Appeal is filed under the provisions of Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SC & ST Act**) challenging the order dated 7 August 2024 passed by the Additional Sessions Judge, Mangaon-Raigad rejecting application filed by the Appellant seeking pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with C.R. No.100 of 2024 registered with Mangaon Police Station for offence punishable under Sections 420, 323, 504, 506 read with 34 of the

Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(1)(z) and 3(2)(va) of the SC & ST Act.

2) I have heard Mr. Modgi, the learned counsel appearing for the Appellants, Ms. Gotad, the learned APP appearing for Respondent No.1-State and Mr. Thobde, the learned counsel appointed by the Court to represent Respondent No.2 from Legal Aid Panel.

3) The FIR essentially stems out of complaint of the Complainant about he being duped in respect of the amount of Rs.29,20,000/- invested by him in 'Aapla Advisory Company' and 'Trust Enterprises Company'. According to the Complainant the accused had promised to pay profit at the rate of Rs.7% per annum on the invested amount of Rs.29,20,000/-. That initially he received such profit but later the accused stopped paying the amount of profit nor returned the invested amount. According to Complainant a notarized agreement was executed after lodging of complaint by the Complainant under which the accused promised to refund amount of Rs.22,00,000/- to him. The accused thereafter showed certain lands for being transferred in the name of the Complainant and it transpired that the lands either belong to the forest department or was acquired /slated to be acquired for canal and road. The FIR is lodged on 10 April 2024 in which the Complainant has included the alleged incidents of 8 June 2023 and 10 June 2023, when the Appellant and others accused abused the Complainant with reference to his caste and also assaulted him.

4) There is considerable delay in lodging FIR with regard to the incidents of 8 June 2023 and 10 June 2023. Ms. Gotad would highlight lodging of two FIRs against the Appellant bearing C.R. No. 214 of 2023 with Mahad Police Station and C.R. No. 115 of 2024 with Mangaon Police Station. She would submit that the Appellant has apparently duped several others investors and that C.R. No. 115 of 2024 is lodged under the provisions of all Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (**MPID Act**).

5) However, perusal of documents collected during the course of investigations would reveal that no amount has been received in any of the accounts of Trust Enterprises Company of which Appellant is a founder. Appellant claims that he has no relationship with Aapla Advisory Company in whose account certain amounts are received out of the amount of Rs.15,20,000/- allegedly transferred online by the Complainant. So far as allegation of Rs.14,00,000/- paid in cash, the notarized agreement dated 29 December 2021 would indicate that the said cash amount is received by the accused – Manoj Sadanand Tetgure and Sandesh Suresh Kavade. It appears that accused Sandesh Suresh Kavade has already been arrested and released on bail.

6) *Prima facie*, therefore, there is no evidence of Appellant or his company receiving any of the alleged invested amount by the Complainant. So far as the caste based utterances are concerned there is considerable delay in lodging the FIR. The investigations are complete and the chargesheet has been filed against Accused Nos. 4

and 5. So far as the Appellant is concerned, he has remained present before the Investigating Officer and has co-operated with conduct of investigations. Therefore, his custodial interrogation at this stage is not warranted. Therefore, interim protection granted in favour of the Appellant by Order dated 9 September 2024 deserves to be made absolute.

7) I accordingly proceed to pass the following order:

a) Order dated 7 August 2024 passed by the Additional Sessions Judge, Mangaon-Raigad is set aside.

b) Interim protection granted in favour of the Appellant by Order dated 9 September 2024 is made absolute.

c) Appellant shall attend each date of hearing before the Trial Court regularly unless exempted from personal appearance.

d) The Appellant shall not contact the complainant or any other witnesses associated with the case nor shall tamper with the evidence.

8) With the above directions the Appeal is allowed and **disposed of.**

[SANDEEP V. MARNE, J.]