

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.165 OF 2024

Rohan Ankush Polekar, Age 30 years,
Occ.Business, R/o.Room No.23,
2nd Floor, Tulsi Angan Building,
Plot No.B-36, Sector-6, New Panvel,
Tal.Panvel, Dist.Raigad.
(Presently at Taloja Central Jail)

Applicant

versus

The State of Maharashtra

Respondent

Mr.Sandeep Karnik, Advocate for Applicant.
Mr.PH.Gaikwad, APP for State.

CORAM : ANIL S.KILOR, J.

DATE : 9th October 2024

PC :

1. Heard.

2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.119 of 2023 registered with Uran Police Station, Navi Mumbai, for the offences punishable under Sections 406, 420, 34 of Indian Penal Code r/w Sections 3, 4, 5 of Prize Chits and Money Circulation Scheme (Banning) Act, 1978 r/w Sections 3,4,5,6,21,22,23,25 of Banning of Unregulated Deposit Scheme Act, 2019 r/w Sections 3, 4 of Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

3. This Court granted bail to the co-accused Akshay Koli and Swapnil Mhatre vide order dated 3rd October 2024 in Criminal Bail

Application No.2473 of 2024 and Criminal Bail Application No.1655 of 2024 respectively. This Court while granting bail has considered the fact that the charge sheet has been filed and all the relevant documents are in custody of prosecution. Furthermore, the fact that the amount seized or properties attached from the respective co-accused substantively secured the interests of investors.

4. In the present matter the learned counsel for Applicant seeks parity with the above referred two accused and for that purpose the Applicant has filed affidavit of his father, Ankush Polekar to the following effect :

“3. I say that during the course of hearing it was pointed out by the prosecution that an amount of Rs.33,00,000/- were allegedly invested by one of the alleged investors namely Jitendar Thakur because of inducement given by my son i.e. Applicant Rohan Ankush Polekar.

4. I say that without prejudice to our rights and contentions and without admitting the guilt the present affidavit is being filed with respect to a property more particularly described as flat no.401, 4th Floor, Gandhi Complex, Plot No.P-2 Sector 43-(A), Mauje (Rural), Taluka Uran, District Raigad admeasuring 886 sq.ft. (hereinafter referred to as the said premise).

5. I say that aforesaid property belongs to me and I am the sole owner of the said premises and there are no encumbrances on the said property.

6. I say that the market value of the said premises is Rs.50,00,000/- and therefore the said value of property is very well sufficient to secure the alleged amount which is deposited by the alleged investor.

7. I say that in order to show bonafide and to secure

the amount which is alleged against the Applicant herein to the tune of Rs.33,00,000/-, I undertake not to create third party rights over the said premises till the conclusion of the trial.”

The affidavit dated 5th October 2024 is take on record and marked “X” for identification.

5. As per Investigating Officer who has visited the office of Sub Registrar has cross verified the market value of the said property at Rs.45 lakh, which is much more than the amount alleged to have involved qua the Applicant. In the circumstances since the substantive amount is secured, I am of the opinion that parity will apply. Accordingly I pass following order :

ORDER

- (i) Bail Application is allowed and disposed off;
- (ii) It is directed that the applicant shall be released on bail in Crime No.119 of 2023 registered with Uran Police Station, Navi Mumbai, for the offences punishable under Sections 406, 420, 34 of Indian Penal Code r/w Sections 3, 4, 5 of Prize Chits and Money Circulation Scheme (Banning) Act, 1978 r/w Sections 3,4,5,6,21,22,23,25 of Banning of Unregulated Deposit Scheme Act, 2019 r/w Sections 3, 4 of Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 on furnishing PR.Bond of Rupees Fifty Thousand with one solvent surety in the like amount;
- (iii) The Applicant shall attend Uran Police Station, Navi Mumbai, on every 1st and 16th of every month between 10.00 a.m and 11.00 a.m till conclusion of trial;
- (iv) The applicant shall not directly or indirectly make any

inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

(v) Liberty is granted to the State for cancellation of bail if the applicant breaches any condition or misuses liberty or commits similar offence;

(vi) The applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the trial Court for any reason;

(vii) It is directed that the father of the Applicant shall co-operate the prosecution in attachment of the property mentioned in the affidavit.

(ANIL S.KILOR, J.)

MST