IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 245 OF 2024

Sunil Janardan Zambare ..Applicant
Versus
The State of Maharashtra & Anr. ..Respondents

Mr. Prashant S. Hagare for Applicant.
Mr. Prashant Jadhav, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 11 JULY 2024

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. 728 of 2022 registered at Pimpri Police Station, on 31.08.2022, under sections 406 and 420 r/w. 34 of the Indian Penal Code and U/s.3 of the The Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (for short 'MPID Act').

2. Heard Mr. Prashant Hagare, learned counsel for the applicant and Mr. Prashant Jadhav, learned APP for the State.

3. The Applicant was arrested in this crime on

30.01.2023 and since then he is in custody. The investigation in this case is over and the charge-sheet is already filed. The prosecution story based on the F.I.R. and the documents in the charge-sheet is as follows:

One Rahul Jakhad, Ramhari Mundhe and the present applicant had formed a company by the name JBC Capital Private Limited. They had appointed a few agents namely Repale, Chaskar and Bhor. All of them induced the investors by telling them that they were accepting the investments for a period of 10 months and they had promissed returns of 10%p.m. on their investments. At the end of 10 months period, the principal amount was also to be returned. It is mentioned that, initially under that scheme, the first informant and others had invested Rs.46,39,100/-; for which, some MOU were executed between JBC Capital and those investors. For a few months the amount of Rs.14,24,557/- was returned and based on such partial payment, the investors were induced to invest in another scheme which was to make double of the principal amount within six months. In that scheme, further amount was invested by the investors to the tune of

Rs.27,50,000/-. The company had given cheques of the amount of Rs.55 lakhs, but they were dishonoured. The principal amount of the investors was not returned and thus, there was a fraud to the tune of Rs.1,33,13,643/-. On this basis the F.I.R. was lodged.

4. On the previous occasion, notice was issued to the Respondent No.2, and the I.O. was directed to inform the Respondent No.2 about the next date of listing. Accordingly, the I.O., through the learned APP has stated that the Respondent No.2-first informant is informed about the today's date. Today, nobody appears for the Respondent No.2. In any case, this matter does not pertain to the informant alone, but it is about the investments made by all the investors.

5. Learned counsel for the applicant submitted that, he was a Director in the said company between the period 07.09.2020 upto 15.02.2021. He relied on a copy of a document of Ministry of Corporate Affairs. That document is at page No.496 of this application. He submitted that, even as per the allegations, the investments were accepted right from the year 2019 when the

applicant was not even the Director of the company. He submitted that the main accused Rahul Jakhad is in Dubai. The statements show that he was the person who was controlling the company. He is not yet arrested. The applicant is not a beneficiary of the investments. He has not purchased any property out of the crime proceeds i.e. the investments of the investors. The applicant is already in custody since 30.01.2023. The investigation is over. His further custody is not necessary. The trial is not likely to begin in near future.

6. Learned APP opposed these submissions based on the averments in the affidavit filed by the investigating agency through API Sandip Deshmukh.

7. I have considered these submissions. Some of the statements of the investors are annexed to the affidavit, namely Jitendra Kharmale, Santosh Tambe, Sampat Bhalerao, Rajan Padval, Sanjay Dalvi and Sandip Ghule. All the statements are similar showing as to how they were induced into investing in various schemes of the company. In fact, the statement of Santosh

Tambe shows that Rahul Jakhad had told this witness that the applicant and Ramhari Mundhe were the Directors of the said company, but he himself was the Chief Executive Director. His statement further shows that the company was controlled by Rahul Jakhad. He is not yet arrested. Learned APP, on instructions, accepted that the investigating agency has not found that the applicant was a beneficiary in any manner. The beneficiary was the company and mainly the aforesaid Jakhad. However, the investigating agency has not attached any of the properties of the applicant. The charge-sheet does not show that the applicant had purchased any property out of the crime proceeds. This is an important consideration. At the highest, role of the applicant would be of inducement to the investors who have lost their money. But for those allegations, the applicant is already in custody since 30.01.2023 which is more than one and half years. The investigation is already complete. His further custodial detention will not serve any purpose. The trial is not likely to commence in near future. The maximum sentence provided under the MPID Act is six years, and for the offence U/s.420 of the I.P.C.

maximum sentence provided is seven years. In this view of the matter, further detention of the applicant as an undertrial prisoner for the entire period of trial will not serve any purpose. He deserves to be released on bail.

8. Hence, the following order :

O R D E R

i) In connection with C.R.No. 728 of 2022 registered at Pimpri Police Station, the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

ii) The Applicant shall deposit his Passport, if any, with the investigating officer before he being released on bail.

iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)