IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3508 OF 2024

Ramchandra Raoji Bhoye .... Applicant
versus
The State of Maharashtra .... Respondent

…....

- Mr. Akshay Bankapur, Advocate for Applicant.
- Ms. Ranjana D. Humane, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 12th SEPTEMBER, 2024

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.377/2023, dated 08/11/2023, registered with Bhadrakali Police Station, Nashik, under sections 420, 406, 409, 201 r/w 34 of the Indian Penal Code. Subsequently, provisions of sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999, are also added.

2. Heard Mr. Akshay Bankapur, learned counsel for the Applicant and Ms. Ranjana D. Humane, learned APP for the State.

3. The Applicant is a 71 year old Director of the accused company. He was arrested on 08/03/2024 and since then he is in custody. The investigation in this case is over and the charge-sheet is already filed.

4. The FIR is lodged by one Akash Sonawane. The allegations are in respect of the investors' amounts which were accepted on behalf of the company by the name 'Shramasampada Nidhi Limited' (hereinafter referred to as the 'company').

5. The informant Akash Sonawane has stated in his FIR that he was in the business of supplying medicines. While conducting his business, he came in contact with one Sudhakar Londhe. He is one of the accused in this case. He met Sudhakar Londhe in the year 2022. Londhe told the informant about the scheme floated by the company. The informant was told that on his savings made on a daily basis, he would get 5% interest after every six months. Accordingly, he invested Rs.500/- per day. Initially, he had got return of 5% interest. After that, Sudhakar

Londhe told him that he was the Development Officer of the company and if the informant worked as an agent, he could get 7% commission per month for the investments brought by him. The informant, thus, became an agent of the company. The FIR goes on to mention that the informant got around 100 investors for the company. Some of them got back their principal amount as well as their interest. But from October 2023, the company started avoiding making payments to them. The informant took the investors to the company's office at Nashik. All of them met the Chairman Bhaskar Binnar and the Directors Vishnu Dinkar and the present Applicant. There were core committee members as well namely, Sudhakar Londhe and Dipak Nikam. One of them told the agents that they should continue working and that the investors would be returned their amounts very soon. On 29/10/2023, one Arun Malusare connected with the company vacated the premises and absconded. The informant used to contact Chairman Bhaskar Binnar and Sudhakar Londhe for returning the investment of the investors. But they stopped responding to his calls. The informant realized that he and the others investors were cheated and therefore he lodged the FIR.

6. At the time of lodging of the FIR, the amount of investment mentioned was to the tune of Rs.20,78,300/-. The investigation was carried out and the charge-sheet was filed. As per the story in the charge-sheet, the amount of investment, which was not returned to the investors and which was misappropriated was to the tune of Rs.2,80,48,171/-. The facts mentioned in the charge-sheet are that the company was incorporated in the year 2018. On the date of the registration of the FIR, the aforementioned persons were the Directors of the company. Inducement was given to the agents and the investors that they could get incentives in the nature of car, free trips etc. The charge-sheet contains the statements of various investors. It is further mentioned that, initially, Sudhakar Londhe and Dipak Nikam were working as Area Manager and other agents were working under them, who used to induce the investors or engage the investors in the company. The accused Bhaskar Binnar and Vishnu Dinkar were arrested in connection with the offence registered with Dombivali police station. It is alleged that when Bhaskar Binnar and Vishnu Dinkar were in custody,

Arun Malusare conspired with Sudhakar Londhe and Dipak Nikam and took over the company. He committed fraud and misappropriated a huge amount. There are other allegations that the Directors of the company entered into an agreement with one Samir Kalkot and gave that company in his control. After that, he accepted various amounts. He did not keep record of those investments anywhere and did not return the amount. These are the allegations in the charge-sheet. Arun Malusare and Samir Kalkot are not yet arrested.

7. Learned counsel for the Applicant submitted that, as per the investigation, which is reflected in the charge-sheet, there are facts mentioned which clearly show that the main fraud was committed by Arun Malusare and Samir Kalkot. Learned counsel for the Applicant invited my attention to the complaint lodged by the Applicant, Bhaskar Binnar and Vishnu Dinkar with Police Inspector Mumbai Naka police station on 02/11/2023. He submitted that this complaint was lodged before the registration of the FIR and it contained signatures of various investors and agents and in particular it was signed by

the first informant himself. He therefore submitted that the offence is not committed by the Applicant. According to him, the record of the company shows that he had joined the company as a Director from 31/03/2023. The investments were being accepted much before that and the business of the company was running smoothly when he had become a Director. But the issues started only after Arun Malusare took over the control of the company in May 2023. Ultimately, they had to appoint the other accused Samir Kalkot who had showed willingness to take over the control of the company at that stage. He further submitted that there is absolutely no recovery either of cash or of any amount from any bank account which could show that the investments made by the investors had travelled in Applicant's bank account for his benefit and personal use. The money trail did not lead to him. He submitted that the Applicant is a 71 year old man. He is already in custody since 08/03/2024. The investigation is over. His further custody is not necessary, therefore, he be granted bail.

8. Learned APP submitted that many investors were

cheated and they were deprived of their huge investments. She submitted that Arun Malusare and Samir Kalkot are still absconding. She submitted that handing over of the company to Samir Kalkot through an agreement was not legal. The Applicant was a Director of the accused company and therefore he has been rightly arraigned as an accused under the provisions of MPID. However, she conceded that the investigation has not revealed that he was a beneficiary of any amount. This statement of learned APP is on the instructions of the Investigating Officer and after going through the entire charge-sheet.

9. I have considered these submissions. The Applicant was a Director of the accused company only for a period of six months. The investments were being accepted much before that. The charge-sheet shows that the co-accused Arun Malusare took over the control of the company in connivance with Londhe and Nikam, since May 2023 itself. The FIR shows that the payment to the investors were being delayed since October 2023. The Applicant and others, under the signatures of the agents, had

made a complaint to the police officer in the month of November 2023. By way of desperate measure, the Applicant and others had entered into an agreement with Samir Kalkot, though it may not have the sanctity of law. This shows that the business of the company had started suffering from May 2023 onwards. The investigation has not revealed that the Applicant was the beneficiary of any significant amount, out of the amount of more than Rs.2 crores mentioned in the charge-sheet. The money trail did not lead the investigating agency to the Applicant. As submitted by learned counsel for the Applicant, he is a 71 year old man. He has not played any major role in the fraud. The investigating agency had sufficient opportunity to interrogate him. There is no recovery from his end. There is no property owned by him or his relative or friend, which could be attached by the investigating agency.

10. Considering all these aspects, the Applicant can be granted bail.

11. Hence, the following order :

ORDER

(i) In connection with C.R.No.377/2023, dated 08/11/2023, registered with Bhadrakali Police Station, Nashik, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two sureties in the like amount.

(ii) The Applicant shall attend the office of investigating agency once a month for a period of one year from today.

(iii) The Applicant shall not tamper with the evidence.

(iv) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)