**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.1840 OF 2024

Shivaji S/o Bhimrao Rode
Age: 41 years, Occu.: Retired/Agri.,
R/o.Gut No.35, House No.2946,
Rode Nagar, Asrafpur Sawangi,
Aurangabad. … Applicant

Versus

The State of Maharashtra
Through MIDC CIDCO Police Station,
Aurangabad … Respondent

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Mr. Nilesh S. Ghanekar, Advocate for Applicants
Mr. S.B. Narwade, APP for Respondent – State

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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 14 JANUARY 2025
PRONOUNCED ON : 20 JANUARY 2025

ORDER :

1. Applicant seeks his enlargement on regular bail on account of his arrest in Crime No.0481 of 2023, registered at M.I.D.C. CIDCO Police Station, Aurangabad for offences punishable under Sections 406, 420 read with Section 34 of the Indian Penal Code (IPC) and Sections 3 and 4 of the MPID Act.

2. Pointing out the date of arrest of the applicant i.e. 16.07.2024, learned counsel submitted that after registration of crime, applicant had approached this Court for grant of anticipatory bail. That he was also a

beneficiary of interim anticipatory bail, and until its withdrawal, he co-operated with the police in the investigation. Learned counsel submitted that the present applicant, who is an ex-army man, is himself one of the investors arranged others. That, crime has been registered on 04.10.2023 alleging attracting investments with assurance of handsome returns. That, present applicant has himself invested Rs.2,00,000/- and Rs.2,50,000/- respectively, on the assurance of accused no.1. That, there was an agreement and memorandum of understanding between him and accused no.1. That, like applicant, other persons have also invested, but later on, are also like applicant defrauded and duped. Learned counsel pointed out that the allegations against the present applicant are that he canvassed for the investment with his friend, who also invested. However, learned counsel submits that this was an individual discretion and there was no false assurance given by the applicant. That, main accused Pankaj Chandanshiv misappropriated the depositors' amount. That as regards the present applicant is concerned, whatever amount is received in his account, is further transferred to the investors' account. That, there is bank statement to that extent. That, applicant is behind bars since his arrest in July 2024. That, now investigation is almost over. That, entire investigation pertains to documentary evidence. That, nothing is to be recovered or discovered from the applicant. That, he has roots in the society and has also movable and immovable properties, and he could not misuse the liberty and ready to abide all and any conditions imposed by this Court. For above reasons, learned Counsel prays for grant of regular bail.

3. While opposing the bail application, learned APP pointed out that, investigation revealed that present applicant is also a beneficiary like the main accused. That, the money he earned from various depositors has been misappropriated That, main accused has already left the country. As regards the present applicant is concerned, the investigation revealed that he stood beneficiary of the amount to the tune of Rs. 50,00,000/-. That, investigation is still incomplete. That, there are statements of witnesses, who have named present applicant specifically for giving assurances of huge return and attracting investments. That, believing him, several of his friends have invested their earnings, but rather financially cheated. Consequently, for above reasons, learned APP prays to reject the application.

4. Heard both sides. Perused the FIR, which is at the instance of one Ravi Tukaram Veer, who reported that in the year 2022, he got acquainted with the present applicant, who informed him about the scheme run by M/s. Abha Investment and Land Developers that, on investments, handsome returns of 7% interest is given and assured to introduce present informant to its proprietor Pankaj Shivajirao

Chandanshiv. Accordingly, present applicant took informant to the office of Pankaj Chandanshiv, and there it was projected by Pankaj Chandanshiv that if he invests money in their firm, the returns should be given @ 7% interest. At that time, including present applicant, Sominath Chandanshiv and Sominath Narwade also proposed present informant to invest in the said firm by taking guarantee. According to informant, believing them, he entered into memorandum of understanding on 22.09.2022 i.e. between Pankaj Chandanshiv and himself, and handed over Rs.2,00,000/- to Pankaj Chandanshiv. He further informed that he handed over cash of Rs.2,50,000/- to Pankaj on 07.10.2022 for investment. That in view of such investment, Pankaj has given a cheque of Rs.2,50,000/- to the informant as security. According to informant, from time to time, he invested total Rs.7,50,000/-. That, as many as, fifty other persons also invested crores of rupees, but subsequently no returns were given by Pankaj Chandanshiv, and rather he fled and left the country itself. On above report, M.I.D.C. CIDCO Police Station has registered crime no. 0481/2023 for above offences. In the report, informant has named Pankaj Chandanshiv, present applicant, Sominath Chandanshiv and Sominath Narwade.

5. The case now set up by learned counsel for applicant is that the present applicant himself, who is an ex-army man, is an investor and he has also invested the amount, but he too has been subsequently

victimized and cheated by main accused. He submitted that, though there are allegation that present applicant introduced his close friends to main accused and they also invested money and there are statements of some of them about investing amount at the instance of present applicant. Learned counsel submitted that, everybody has exercised their own discretion and moreover, as like them, even present applicant has invested his retirement earnings. Learned counsel fairly admitted that he has worked as an agent on behalf of Pankaj Chandanshiv, but finally said person duped and cheated him also. Learned counsel has placed on record orders of this Court as well as the Trial Court, wherein similarly situated persons, namely Pradeep Eastke, Sominath Narwade, who also were said to be agents and had merely received commission for attracting investments, are beneficiaries of bail.

6. On going through the orders of Trial Court as well as this Court dated 22.12.2023 and 08.10.2024, respectively, it seems that for present crime itself, aforesaid two persons are granted regular bail. Above all, learned counsel for the applicant also made a statement across the bar that whatever earnings applicant has received by way of commission, he has already transferred the same in the account of investors and statement to that extent is placed on record. Taking the same into consideration and that similarly situated persons are beneficiaries of regular bail, on the ground of parity as well as considering the fact that

applicant himself has been defrauded and cheated and more particularly, investigation is said to be over, no purpose would be served by continuing the detention of the applicant. Therefore, relief as prayed deserves to be granted. Hence, the following order :

ORDER

(i) Application is allowed.

(ii) Applicant Shivaji S/o Bhimrao Rode be released on bail in connection with Crime no.0481 of 2023 registered with M.I.D.C. CIDCO Police Station, Aurangabad on executing Personal Bond of Rs.15,000/- with one surety in the like amount.

(iii) Applicant shall not tamper prosecution evidence.

ABHAY S. WAGHWASE,
JUDGE

S P Rane