IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2259 OF 2024

Abhishek s/o Chandulal Biyani,
Age : 28 years, Occ: Business,
R/o: Gurukrupa Nagar, Parli,
Tq. Parli, Dist. Beed,
Presently R/o: A-801, Prithvi Presidio,
Magarpatta Road, Hadapsar, Pune. … Applicant

Versus

The State of Maharashtra … Respondent

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Mr. Somnath G. Ladda, Advocate for the Applicant
Mr. V. M. Chate, APP for the Respondent-State

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 15.01.2025
Pronounced on : 17.01.2025

ORDER :

1. This is a regular bail application on account of arrest of applicant in crime no. 0180 of 2024 registered at Jawahar Nagar Police Station, Aurangabad for offence under Sections 406, 409, 420, 120-B r/w 34 of IPC and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (MPID Act).

2. Pointing out that applicant is arrested in above crime on 03.10.2024 learned counsel emphasized that applicant is not named

in the FIR. He is arrested for only being son of Chairman of the Rajasthani Multi State Co-operative Credit Society Limited, Parli Vaijanath (for short, “Credit Society”). Learned counsel pointed out that, there are allegations that investments were attracted by way of fixed deposits by assuring handsome returns. That, complaint was received from a retired person that he had kept fixed deposits and had availed interest for certain period, but when he sought money for medical ground, the cheques allegedly issued by the society were dishonoured and hence report has been lodged. Learned counsel pointed out that allegations are levelled against Chairman, Board of Directors and office bearers. However, according to learned counsel, though applicant contested the election and was elected, he never functioned or officiated on any designated post and rather, he has already tendered resignation which is duly accepted by the Credit Society. It is pointed out that as regards to present complainant is concerned, there was never any contact between complainant and applicant or even other investors at any point of time. Learned counsel pointed out that in fact, present applicant conducts distinct business at Pune and has no concern with the Credit Society. He would submit that in the very resignation letter, which is already accepted, applicant has conveyed that because of his main business, he is unable to devote time to function for the Credit Society.

Therefore, according to learned counsel, applicant has no concern with the present crime.

3. Learned counsel for the applicant further pointed out that, list of Board of Directors and elected members is also annexed with the application and name of present applicant is not reflected in the same. According to him, there is no iota of evidence suggesting indulgence of present applicant in attracting deposits by assuring huge returns to any of the investors. Lastly, learned counsel submitted that, merely because of he is son of Chairman, he has been arrested. That, he is young boy of 28 years of age. He is not privity to any agreement for transaction. That, by virtue of crimes of similar nature with similar allegations registered at Ambajogai, applicant was constrained to apply for bail and that, learned trial court, after appreciating the prosecution case, had extended him benefit of regular bail. Copies of such bail orders are placed on record and therefore, learned counsel seeks similar treatment and relief in present crime as, according to him, applicant is ready to abide all and any conditions imposed by this Court.

4. Learned APP, who strongly opposed the application, pointed out that applicant was elected as a Vice-Chairman, and he is son of

Chairman. That, all members of Board of Directors have flouted and violated rules and regulations, sanctioned huge loans and have diverted investors' amount for personal growth and for amassing properties. That, hard earned money of various common people like complainant are misappropriated and fraud has been played on them. That, it is a serious economic fraud and, according to learned APP, though applicant is not named in the FIR, investigation does reveal his involvement also, and for such reasons, he opposes relief.

5. After considering the above submissions and on going through the papers to which attention has been invited, it is emerging that on the strength of FIR at the instance of one Sunil Baburao Kharge, crime is registered against Chandulal Biyani, Jagdish Biyani and all Board of Directors of the Credit Society for above offences. Substance of the FIR is that, applicant had, on his retirement, invested his life earnings by keeping fixed deposits in the name of himself as well as his wife. Details of the fixed deposits are also provided in the FIR. He has informed that he came across advertisement and after getting knowledge from people in the vicinity, that said Credit Society attracts investments and distributes handsome returns, he approached Branch Manager and on interaction, he was assured about huge returns and security of his investments. When he was in need of funds

on medical ground, he had approached the Branch Manager, who handed him five cheques but the same were dishonoured. He thereafter approached office at Apna Bazar, Chhatrapati Sambhajinagar to the Director namely Jagdish Biyani. That, he initially assured that amount would be repaid, but later on he avoided and finally refused and moreover, the branch office was said to be shut down. Therefore, above report has been lodged.

6. Apparently, as pointed out in the FIR at least, applicant has not been named. Prosecution claims that he was one of the office bearers and moreover, he contested election and even got elected. However, as pointed out by learned counsel, Executive Officer of the Credit Society has issued list of elected Directors for the period from 2022-2023 to 2027-2028 and 13 names are reflected in the list but apparently, name of present applicant does not find place in the said list of Board of Directors and office bearers. As submitted and pointed out, there seems to be a resignation letter at the instance of present applicant dated 30.09.2023 addressed to Chairman conveying that he being shifted to Pune for business purpose, he will not be in a position to function and devote time and hence, tendering resignation. Resignation is also said to be accepted on 04.10.2023 and its copy is placed on record.

7. Thus, what is emerging is that, Exhibit D shows that applicant was shown to be elected as a member on 03.09.2023. On the last day of the same month, resignation was put up and the same is accepted on the 4th of next month, i.e. 04.10.2023. As regards to present FIR is concerned, complainant seems to have opened account with the society on 15.07.2019 itself and applicant is not named in the report. Apparently, FIR is against Chairman Chandulal Biyani, Jagdish Biyani and Board of Directors. There is apparently interaction by the informant with Branch Manager and on conversation with such person, present complainant appears to have invested his earnings. Learned counsel has placed on record, orders passed by learned Additional Sessions Judges, Ambajogai in two bail applications bearing no. 457 of 2024 and 485 of 2024, wherein identical allegations are levelled in crimes bearing nos. 227 of 2024 and 274 of 2024, which are apparently crimes pertaining to some transactions which took place at Parali city itself. Taking into account short tenure of a month's functioning, resignation of applicant being shown to be accepted, applicant to be involved in distinct partnership business being run at Pune since 2021 as well as the above discussion, there is no reason to refuse relief of bail. Hence, I proceed to pass the following order:

ORDER

I. The application is allowed.

II. Applicant Abhishek s/o Chandulal Biyani, be released on bail in connection with Crime No. 0180 of 2024 registered at Jawahar Nagar Police Station, Aurangabad City (Chhatrapati Sambhajinagar), on executing Personal Bond of Rs. 1,00,000/- with one surety in the like amount, on the following conditions :

(a). The applicant shall not tamper prosecution evidence.

(b). The applicant shall co-operate during the course of investigation and attend the concerned police station once a week i.e. on every Monday between 11.00 a.m. to 5.00 p.m. till filing of the charge sheet.

(c) The concerned police station to maintain diary of attendance of the applicant.

[ABHAY S. WAGHWASE, J.]

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