

MHKO010037022023 	<u>Order below Exh.7 in Special Case No.224/2023.</u> Dipali Dattatraya Patil Vs. State of Maharashtra
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1] This bail application is filed by applicant/accused No.2 – Dipali Dattatraya Patil under Section 439 of Cr.P.C. for bail.

2] **The prosecution story in nutshell is as under :-**

It is alleged that in July 2021, the informant got acquainted with Dattatraya Patil, R/o. Borwade, Tal.Kagal, Dist.Kolhapur. At that time Dattatraya Patil informed him that he is engaged in the business of trading along with his wife Dipali Patil under the company namely Dhanshanti Multi-trading Services L.L.P. After the assurance given by Dattatraya Patil, initially he invested an amount of Rs.1,00,000/- and received returns of Rs.11430/-. Therefore, from time to time he invested an amount of Rs.81,20,000/- till the end of June 2022. After that the returns were stopped by Dattatraya and Dipali Patil since February, 2022. When the informant made inquiry, they informed that the investment is made with huge trading company situated at Pune and returns will be deposited. After lapse of few months, the money were not returned and due to consistent demands of investors, Dattatraya Patil informed him that the money has been invested with Nitin Gote, resident of Pune. Thereafter, Dattatraya Patil took them to Pune and arranged a meeting of some investors with Nitin Gote, whereby Nitin Gote assured them to handover the flats from the project of his business partner Ajinath Deokar. Accordingly they have visited the project and after due discussion, agreement to sell and Power of attorney have been executed at Registrar Office, Pune in between investors and Ajinath and Sukhubai &

Archana Deokar for 12 flats situated at Hadapsar Pune, by that time the construction work was in progress. After lapse of 4 months, the investors went to take the possession of flats. However, Ajinath Deokar informed them that the consideration amount for flats was not handed over to him by Nitin Gote and hence, he is unable to transfer the possession of flats. Thereafter, by one or the other reason Dattatraya Patil, Nitin Gote and Ajinath Deokar avoided to conduct a joint meeting and by these circumstances, he realized that he was cheated by all of them. He further furnished the details of other 8 investors and money invested by them. Accordingly, he lodged the report. Accused No.1, Dattatraya Patil was arrested on 06/07/2023. Accused No.2, Dipali Patil and No.5, Archana @ Sakhubai Deokar were arrested on 12/07/2023. Thereafter, they were taken into judicial custody. The informant lodged FIR against the accused being C.R. No.112/2023 at Murgud Police Station under Sections 406, 409, 420 R/w. 34 of I.P.C. and Section 3 of the M.P.I.D.Act.

3] The Ld.advocate Mr.Mahadik for the applicant/accused argued that previous Bail Appln.No.667/2023 was 'Not Pressed' on 07/8/2023 and it was not been decided on merits. Now the investigation is completed and charge-sheet is filed before this Court. It is alleged that the applicant/accused is director of the company, she has never made any promises or promoted the business under the name 'Dhanshanti Multi-trading Services, L.L.P.' The entire business was under domain of her husband Dattatraya Dadu Patil. The applicant is not aware of her meetings with investors, actual amounts of investments and returns thereon. The applicant/accused was neither in-charge nor looking into the day to day business affairs of the company. It is not the case of investors that the applicant/accused was present from time to time in the office of the company to promote the business. The applicant had never visited to Pune along with the non-applicant/accused No.1,

Dattatraya Patil and other investors to conduct the meetings with non applicant/accused, Nitin Gote and Ajinath Devkar. The transactions made in Pune are beyond the knowledge and information of present applicant. Moreover she is not the party to the alleged transactions/registered deeds. There is no any recovery or discovery at the instance of the applicant to show her nexus with the alleged business of the company.

4] The Ld.advocate Mr.Mahadik for the applicant/accused argued that the whole case is based on documentary evidence and as the investigation is complete in the matter, the custody of the applicant is not necessary to the investigating authority. The maximum punishment for all the offences leveled against her does not exceed the term of 7 years. The applicant is a women and she is seeking her request for bail in consonance with proviso of Section 437 (1) (ii) of Cr.P.C. The Hon'ble High Court granted bail vide Bail Appln.No.2940 of 2023 to accused Mrs.Archana @ Sakhubai Ajinath Deokar on 4th November 2023 on terms and conditions, hence, on the parity ground, the present applicant/accused be released on bail.

5] The Ld. advocate Mr.Mahadik for the applicant/accused filed copy of order passed in Cri.Bail Appln.No.667/2023 and order passed in Bail Appln.No.2940 of 2023, on 4th November, 2023 to accused Mrs.Archana @ Sakhubai Ajinath Deokar.

6] The Ld. advocate Mr.Mahadik for the applicant/accused relied on the following Judgments :-

A) *Devya Deepak Parkhe Vs. State of Maharashtra, reported in AIR Online 2021 BOM 429*, wherein the Hon'ble High Court held that -

“ Allegation that informants invested amount in company where husband of accused, was Managing Director and accused was director and it was promised to them that they would get huge returns. Fact remains that informants received certain amount initially from company towards their investment and thereafter, cheques issued by company have been dishonoured. Charge sheets have been filed but no progress in case. Accused being lady having two children, bail granted on condition.”

B) *Ramkrishna Premchand Dubey Vs. State of Maharashtra, reported in AIR Online 2021 BOM 5348*, wherein the Hon'ble High Court held that -

“ Considering maximum punishment i.e. 7 years is provided for alleged offence ordinarily, there is no reason why accused persons should languish in jail particularly when early culmination of trial appears to be a distant possibility. Bail granted to accused with conditions.”

C) *Archana Salaskar Vs. The State of Maharashtra, reported in 2021 ALL MR (Cri) 254*, wherein the Hon'ble High Court held that -

“ Informant and her husband invested in applicant's company as per his request. Allegations that applicant cheated informant and her husband. FIR shows that main representation was made by husband of applicant... Applicant is directed to be released on bail.”

D) *Nethra Palarswamy Vs. State of Karnataka, reported in AIR Online 2022 KAR 2842*, wherein the Hon'ble High Court held that -

“ Considering fact that accused having surrendered before Police on commission of alleged murder. Bail granted.”

7] The learned Spl.P.P., Mrs.Vishakha Bharate strongly objected said application on the ground that the charge has been framed against

accused and the prosecution is ready to the conduct the trial. So that application be rejected.

8] The Investigating Officer objected said application by filing say at Exh.21 on the ground that the offence is serious in nature. The accused/applicant with common intention committed offence along with her husband, accused No.1, Dattatraya Patil.

9] The applicant/accused filed her undertaking vide Exh.24 that she is not going to claim her right on Gurukripa Apartment, constructed on Survey No.37, Hissa No.16/2/1, admeasuring 18.50 R., sitated at Hadapsar, Tal. Haveli, District Pune and not to create any dispute regarding said property. The similar undertaking is given by the accused No.4, Archana @ Sakhubai Devkar before the Hon'ble High Court. The Ld.advocate for the applicant/ accused Mr.Mahadik submitted that in view of the order passed by the Hon'ble High Court in Bail Appln.No.2940 of 2023, on 4th November, 2023, the applicant being wife of accused No.1 be released on bail on terms and conditions.

10] The Ld. Advocate Mr.Mahadik submitted that on parity ground she is ready to deposit Rs.5 Lac in Court as per Order of Archana @ Sakhubai Ajinath Devkar, in Bail Appln.No.2940 of 2023. The applicant/ accused is ready to give undertaking as per the undertaking given by the accused, Archana @ Sakhubai Ajinath Devkar, before the Hon'ble High Court in Bail Appln.No.2940 of 2023, that she is ready to deposit Rs.5,00,000/- with the Trial Court within 2 weeks. In view of undertaking of the Ld.advocate Mr.Mahadik, on behalf of applicant/accused, this Court come to the conclusion that the accused can be release on bail by imposing certain stringent terms and conditions. Hence, this Court proceed to pass

following order.

ORDER

1. Application is hereby allowed.
2. Applicant/accused, Dipali Dattatraya Patil in C.R. No.112/2023, under Sections 406, 409, 420 R/w.34 of IPC and Section 3 of The Maharashtra Protection of Interest of Depositors Act, be released on bail on her executing P.R. Bond with one or two solvent sureties in sum of Rs.25,000/- (Rs. Twenty-five Thousand only) on following conditions :
 - A) The applicant/accused is permitted to furnish cash bail surety in the sum of Rs.25,000/- for a period of 6 weeks in lieu of surety.
 - B) The applicant/accused to deposit Rs.5 Lac in the Court within 2 weeks from the date of this order.
 - C) The applicant/accused shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.
 - D] The applicant/accused shall submit her identify proof, address proof and co-operate the Investigating Officer for further investigation.
 - E] The applicant/accused to submit her passport before the I.O. of concern Police Station.
4. Bail before this Court.
5. The application is disposed of accordingly.

Sd/-

(Shailendra Tambe)

Date :- 01/12/2023

Additional Sessions Judge, Kolhapur.