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| MHKO010037022023<br> | <b><u>Order below Exh.59 in Special Case<br/>No.224/2023.</u></b><br><br>Dattatraya Dadu Patil Vs. State of<br>Maharashtra |
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1] This bail application is filed by applicant/accused No.1 – Dattatraya Dadu Patil under Section 483 of BNSS for bail.

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

In July 2021, the informant got acquainted with Dattaraya 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 accused No.1 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. 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, accused No.1, 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 sale and Power of attorney have been executed at Registrar Office, Pune in between investors and Ajinath and 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 reasons Dattatraya Patil, Nitin Gote and Ajinath Deokar avoided to conduct a joint meeting and by these circumstances, informant realized that he was cheated by all accused. He further furnished the details of other 8 investors and money invested by them. Accordingly, he lodged the FIR. 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.Amit Mahadik for the applicant/accused argued that the investigation is completed and charge-sheet is filed before this Court, hence, further custody of applicant is not necessary. Accused No.5, Archana @ Sakhubai Ajinath Deokar has filed Bail Appln. No.2940/2023 before the Hon'ble High Court, which was granted on 04/11/2023. Thereafter, accused No.2, Deepali Dattatraya Patil has preferred bail application Exh.7, which was allowed on 01/12/2023 by this Court on. Accused No.4, Ajinath Deokar has preferred anticipatory bail application before the Hon'ble High Court i.e. ABA No.2601/2023 and on 13/09/2023, the Hon'ble High Court has granted interim protection in favour of the accused No.5 and it was extended till date. The investors had been to Pune along with accused No.1, Dattatraya Patil to meet accused No.3, Nitin Gote, at that time Nitin Gote admitted that accused No.1 has invested the amount with him and he has further invested the said amount into the construction business of Ajinath Deokar.

4] The Ld.advocate Mr.Amit Mahadik for the applicant/accused further argued that the interest of investors has been duly protected by the order of Hon'ble Bombay High Court and further judicial detention of the applicant/accused will not serve any fruitful purpose. Accused No.2, Deepali Patil, No.4, Ajinath Deokar and No.5, Archana Deokar are released on bail, hence, on the ground of parity, the applicant/accused be released on bail on terms and conditions.

5] The Ld. advocate Mr.Mahadik for the applicant/accused filed copy of order passed in A.B.A.No.2601/2023 and order passed in Bail Appln.No.2940 of 2023, on 4<sup>th</sup> November, 2023 .

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

**A) *Aditya Hemant Redij Vs. State of Maharashtra, reported in AIR Online 2023 BOM 97***, wherein the Hon'ble High Court held that -

“ Investigation was complete. Charge-sheet already filed. Accused was in custody almost for one year with no criminal antecedent reported against him. Accused released on bail as trial not likely to commence any time soon.”

**B) *Pandharinath Genubhau Raut Vs. State of Maharashtra, reported in AIR Online 2021 BOM 1726***, wherein the Hon'ble High Court held that -

“ As accused is in jail, his wife filed affidavit, wherein it si stated that amount of Rs.18,18,000/- invested in fixed deposits in various banks was already seized by I.O. As regards two flats, which find place in list of properties mentioned by I.O. along with his affidavit, wife of accused stating that accused would not sell said properties or claim fixed deposits till final disposal of case. As charge-sheet is already filed on completion of investigation, incarceration of accused will serve no purpose. No charge is framed till date. Trial would likely take some time.”

7] The learned APP, Mr.Peerjade strongly objected said application on the ground that there are so many investors, who are cheated by the applicant/accused. The applicant/accused who formed said Company and cheated with many investors along with his wife. The release of accused No.2 to 5 on bail, is no ground to release accused No.1. The offence is under the MPID Act, so that parity ground is not applicable to the present accused. Hence, application be rejected.

8] The Investigating Officer objected said application by filing say at Exh.62 on the ground that the offence is serious in nature and for the further investigation and for recovery of amount, the custody of the applicant/accused is necessary. Hence, application be rejected.

9] I have gone through the application and say of the Investigating Officer and found that the accused was arrested on 06/07/2023 and from last one year he has not filed any bail application. Instead of that, the wife of accused i.e. accused No.2, Deepali Patil filed bail application below Exh.7, which was granted by this Court on 01/12/2023. At the time of argument on bail application of accused No.2, Deepali Patil, the Ld.advocate for the accused No.2 argued that entire business was under domain of her husband Dattatraya Patil and accused No.2 is not aware of his husband's meetings, transactions with investors, actual amount of investors and returns thereon, so that bail was granted to applicant/accused No.2, Deepali Patil, i.e. wife of accused No.1 by this Court.

10) After going through the say of the Investigating Officer, it is found that other offences are also registered against accused No.1 to 3 by Murgud Police Station vide C.R.No.69/2023, under Sections 420, 406, 409 R/w.34 of IPC and under Section 3 of MPID Act. Dhanshakti Multi-trading

Services LLP, is owned by accused No.1 and 2 and they invested an amount with accused No.3, Nitin Gote. Accused No.3 has not returned the invested amount to accused No.1 and 2, so that accused No.3 transferred his property of an amount of Rs.2,20,00,000/- by preparing legal documents.

**11)** It is also found that accused No.2, Deepali Patil, wife of accused No.1 filed her undertaking at 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, situated 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 No.1 further argued that the accused no.1 is ready to deposit an amount of Rs.5 Lac in the Court as per the order passed in Cri.Bail Appln.No.2940 of 2023 of accused, Archana Devkar.

**12)** This Court found that there is no change in circumstances and as the role of accused No.2 to 5 and accused No.1 is different, the parity ground is not applicable to the present applicant/accused. The present applicant/accused No.1 along with his wife, accused No.2 cheated with the informant and other investors for an amount of Rs.2,79,20,000/-. The said amount is not recovered from the accused till today. The accused No.1 is not co-operating the Investigating Officer for investigation. Accused No.1 and 2 are having previous criminal antecedent and similar offence is registered against them being C.R.No.69/2023, under Sections 420, 406, 409 R/w.34 of IPC and under Section 3 of MPID Act at Murgud Police Station. For framing of charge against accused, the investigation regarding all the accused is necessary. It is found that accused No.2 was granted regular bail, accused

No.3, Nitin Gote not available being informed that he died before lodging FIR, accused No.4, Ajinath Devkar granted anticipatory bail and accused No.5, Archana Devakar was granted regular bail. After going through the say of the Investigating Officer, it is found that the Investigating Officer mentioned the names of 9 investors along with amount invested by them and accused Nos.1 to 5 cheated with them and said that they will give 10 flats to investors in Gurukripa Apartment.

13) In the above facts and circumstances, this Court come to the conclusion that there is no change in the circumstances to file present bail application. The investigation is not completed. No recovery from accused. Hence, this Court not agreed to grant bail to the applicant/accused at this stage. If accused is released on bail, he will tamper the prosecution evidence and give threats to the informant, investors and prosecution witnesses. The facts and circumstances in cited Judgments are different and not applicable to the present bail application. Hence, this Court proceed to pass following order.

### **ORDER**

The bail Application (Exh.59) of the applicant/accused No.1, Dattatraya Dadu Patil is hereby rejected.

(Shailendra Tambe)

Date :- 03/12/2024

Additional Sessions Judge, Kolhapur