

MHKO010051002022



ORDER BELOW EXH. 37 IN SPECIAL (MPID) CASE No.285/2022

The accused No.12 Sushant Bhanudas Mirajkar was arrested on 22/11/2022 in C.R.No. 739/2022 registered in Shahupuri Police Station under Section 420, 406, 409 read with 34 of the Indian Penal Code, 1860 r/w. Section 3, 4 and 6 of the Maharashtra Protection of Interest of Depositors Act, 1999 with Section 21 of the Banning of Unregulated Deposit Schemes Act. He has filed this application for bail under section 439 of the Criminal Procedure Code.

2. The indictment of the applicant is that the accused No.1 to 5 (Koli family) formed a company by name 'Grobuzz Trading Services' and invited the general public to make investment in that company assuring them that the company will give 15% returns in 10 months. As the scheme was attractive, several persons invested the amount in the company but the company could not give the agreed returns. The complainant Raghunath Khodke lodged the complaint and based on it, the crime was registered against the accused. The present applicant was alleged to be acting as the agent of the company. During investigation, it is disclosed that the accused have cheated the investors and put them in loss of total rupees 8 Crores.

3. According to the applicant, he is not an agent of the company but he was himself one of the investors. He has not personally made offer to the general public, nor received any deposit amount by

assuring them to give such returns and therefore, no offence is made out against the applicant. The applicant is ready to co-operate the investigating agency and will abide by all the conditions that would be imposed by this Court. Hence, he prays that he be released on bail.

4. The say of prosecution was called and the prosecution has resisted this application by filing say (Exh.64). Heard Shri. S.R. Shinde, the learned advocate for the applicant and Shri. Shri. A.M. Peerzade, the learned APP. Perused the case papers and grounds for bail. The reliance is placed by the learned advocate for the applicant on the judgment of the Hon'ble Bombay High Court in *Amrutlal Yadav vs. State of Maharashtra [AIRONLINE 2021 BOM 1605]* wherein, the applicant was charged under similar offences. It was not the case of prosecution that the accused in any manner received money for himself and recovery of an amount was not proved to be at the instance of the accused. None of his properties seized under the provisions of MPID Act. There was nothing to show that the accused received any money or that he was the beneficial. The accused was in custody since more than a year and the investigation was over. Under this backdrop the bail was granted to the accused. The learned advocate submits that the facts and circumstances of the present case are similar and therefore the ratio is squarely applicable.

5. The reliance is also placed on another judgment of the Hon'ble Bombay High Court (Nagpur Bench) in *Raj Mohammad Choudhary V. State of Maharashtra [2021 DGLS (Bom.) 916]*, wherein there were similar offences under which the accused was arrested. Considering the fact that chargesheet is filed, applicant has no criminal antecedents, charge was not framed, 150 witnesses were cited and there was no assurance that the trial will be concluded withing

specified period, the applicant was released on bail. In *Rajesh Bogul Vs. State of Maharashtra [2020 ALL MR (Cri.)2845]*, the accused was arrested in connection with similar offences alleging that he has siphoned huge amount of rupees 8 Crores and he was behind the bar for more than one year though chargesheet is filed. The material was connecting the applicant to alleging crime. Large number of witnesses were to be examined and the progress would itself take considerable amount of time. Thus, the bail was granted on certain conditions.

6. The learned APP submits that the applicant has direct connection to the company formed by Koli family and the record and electronic devices seized during the investigation directly points the involvement of the applicant in alleged crime. The amount siphoned is about rupees 8 Crores and therefore it will not be appropriate to release the applicant on bail.

7. As per the allegations against the present applicant, he was said to be the agent of the company. However, there is no *prima facie* evidence that he has personally collected any amount or misappropriated it for his personal benefit. He has however received disproportionate returns on his investment for which he would be accountable. Like the cases cited on behalf of the applicant, there are number of witnesses cited by the prosecution. The trial of the case will not be concluded in near future. The accused No.11, 13 and 14 have been already released on bail. Thus, considering the alleged role of the applicant, I am of the view that he would be entitled to be released on bail on certain conditions as were imposed by the Hon'ble High Court in Raj Mohammad's case (*supra*). Hence, the order.

ORDER

(1) Bail Application is allowed.

2) The applicant Sushant Bhanudas Mirajkar, who is an accused No.12 in C.R.No. 739/2022 registered in Shahupuri Police Station under Section 420, 406, 409 read with 34 of the Indian Penal Code, 1860 r/w. Section 3, 4 and 6 of the Maharashtra Protection of Interest of Depositors Act, 1999 with Section 21 of the Banning of Unregulated Deposit Schemes Act be released on bail on his furnishing P.R. bond of Rs.30,000/-with surety of the like amount on following conditions:

- i) The applicant shall within 48 Hours of the release from custody, furnish his current address and phone numbers to the Investigating Officer and the information shall be updated, if there is any change.
- ii) The applicant shall scrupulously attend each date of hearing.
- iii) The applicant shall report at Shahupuri Police Station as and when directed in writing.
- iv) The applicant shall not tamper with the evidence or make any attempt to influence the witnesses, directly or indirectly.
- v) The applicant shall not leave the country without the permission of the jurisdictional Court.

Date: 23/02/2023

(S.R. Salunkhe)
Special Judge (MPID),
Kolhapur.