

ORDER BELOW EXHIBIT-54

(Passed on 01/01/2021)

1] Applicant/accused Satish Popatrao Kale moved this bail application claiming regular bail in Crime No.1227/2017 registered with PS Awadhootwadi-Yavatmal for offence punishable under Sections 409, 420 of the Indian Penal Code and Sections 3 and 4 of MPID Act.

2] Read the say. Heard learned Counsel Shri Shelke for applicant/accused and learned A.P.P. Shri N. N. Pande for prosecution.

3] It is submitted on behalf of the applicant/accused that the applicant/accused is peace loving citizen of India and he has permanent resident at Takli (Vinchur) Lasalgaon, Tq. Niphad Distt. Nasik. He has no criminal past. He has not committed any offence whatsoever. He is innocent person. It is submitted that the applicant/accused has no direct connection with this crime. That no information about the embezzlement of the amount by the local employees of 'Dhokeshwar' was given to the applicant until his arrest. Therefore no relationship is seen with the amount of fraud with the applicant. That the applicant has not contacted to any depositors and insisted on investing the amount at Yavatmal Branch. The entire case moves around the documents. Investigation is completed, charge-sheet is filed, all documents are

seized. Thus, in the name of further investigation personal liberty of the applicant cannot be curtailed. It is further submitted that the property of the present applicant and his family is attached and after selling it, the amount of misappropriation is going to be recovered. So it will not be proper to languish the applicant in jail for uncertain period and physical custody of the applicant is not necessary. Now the applicant is not the Chairman of the Society and is not concerned in any way to interfere in the function of the Society. Already liquidator took possession of all documents and property of the applicant.

4] It is further submitted that Netwin, the Software Company that runs the organization's software, due to fatigue of its maintenance amount and due to the closure of the software, some transactions took place in the form of hand and cash instead of software system. The applicant cannot be held responsible for this act. However, the local employees took the advantage of this and swindled money from the branch and some money was deposited in the name of main branch without giving details of the account.

5] It is submitted that the vehicle belonging to the applicant have already been seized in the main offence. The amount shown for embezzlement is Rs.1616500/- and Rs.52831875/- is shown to be unrealistic and bloated. This applicant has nothing to do with that amount. It is submitted that

prohibition order in September 2017 to prevent the transfer of applicant's property, transfer of vehicles and transfer of funds between Banks has been issued. Therefore there is no possibility of violation by this applicant.

6] It is further submitted that Additional Sessions Judge Jalna granted bail in Crime No.684/2017, registered by Sadar Bazar police station Jalna. In similar type of offence applicant has been released on bail by the Hon'ble Bombay High Court, Bombay. In another offence Additional Sessions Judge Satara, JMFC Khultabad and Phaltan Court and Additional Sessions Judge, Parbhani and Nagpur also granted bail to the applicant. Thus, in maximum offence applicant got bail and it will not be proper to keep him behind the bars only in this Crime.

7] Further it is submitted that in this crime the investigation is completed and charge-sheet is also filed. Statements of witnesses were recorded by police and all the evidence was collected. Nothing is to be recovered from the applicant. That the entire case is based on documentary evidence and investigation is completed so judicial custody of applicant will not require in the future. The specimen signature of the applicant is also obtained, house search is also taken and all the evidence is collected. The applicant is ready to abide all conditions imposed by the Court. The applicant has handed over everything to Hon'ble

High Court, Mumbai which belongs to his family. Therefore, no purpose will be served by keeping him behind the bars. Hence, prayed for bail.

8] Learned A.P.P. strongly opposed the application by contending that the complainant lodged report against the applicant/accused and therefore offence is registered against him. The present applicant/accused and other accused dishonestly induced the employees and investors to invest the amount and thereby cheated to them, the said amount was misappropriated, therefore the said act of applicant/accused came under the purview of section 3 and 4 of the MPID Act, as the applicant/accused was Chairman and has control over the said Society. Statements of witnesses shows that the applicant/accused had taken the amount in cash. The applicant/accused with the help of other co-accused has misappropriated and cheated the huge amount of depositors, bank staff and investors. Though some accused were granted bail by the Hon'ble Bombay High Court, Bench at Nagpur in the said crime, but it reveals that the present applicant/accused is completely involved in the said crime as he is a Chairman of the Society and thereby cheated the investors, employees and complainant, it reveals from the investigation. Therefore the rule of parity is not applicable to him. Hence, prayed to reject the application.

9] Considering the rival submission and the police paper

on record it appears that Crime No.1227/2017 for offences punishable under Sections 420, 409 r/w 34 of the Indian Penal Code and Section 3 and 4 of MPID Act came to be registered at PS Awadhootwadi-Yavatmal against the applicant/ accused and other accused.

10] From the police paper, it appears that initially charge-sheet came to be filed against Satish Popatrao Kale and Rakesh Gojre. Thereafter, by way of supplementary charge-sheet accused Parag Bobhate was added. After completion of investigation charge-sheet came to be filed. It is the case of prosecution that applicant was the chairman of Dhokeshwar Multistate Urban Co-operative Credit Society Ltd. The investors had deposited their amount with the said society but did not received/returned as promised by the society. On several occasions depositors approach the society but did not get their money back, consequently police complaint came to be lodged. From the copy of judgment in Bail Application No.2321/2018 dated 25/02/2020 passed by Hon'ble Bombay High Court it appears that said society having its head office at Lasalgaon, Niphad, Nashik and having branches at other places including at Yavatmal. At Lasalgaon Police Station also Crime No.1-124/2017 under section 406, 409, 420 r/w.34 of the Indian Penal Code and Section 3 and 4 of MPID Act came to be registered against the present applicant and in that matter the Hon'ble Bombay High Court pleased the grant the bail to the

present applicant. The present applicant and his wife tendered their undertaking before the Hon'ble High Court and they have undertaken that applicant, his wife and brother will not sell, alienate, mortgaged or transfer the said property and said properties are liable for attachment until the proceeding to be initiated in that crime. The value of said properties mentioned in the affidavit/ undertaking is Crore Rupees as also more than Four Crore Rupees in their name in pending in the Court of Civil Judge (Sr. Dn.), Niphad, Nashik towards the compensation amount of acquisition. They have undertaken that they would not withdraw the said amount and also undertaken that properties mentioned in the affidavit owned by himself, his wife and brother is liable to attachment and they have no objection for the attachment under MPID Act. He by way of separate affidavit has given undertaking that he has no objection in case the learned Civil Judge (Sr. Dn.) Niphad, Nashik transferred the amount of Rs.4,00,48,840.00 to the Special Court with a view to attach the same under the MPID Act. The applicant and his brother categorically stated in the undertaking that they would not claim any right of whatsoever nature to the said amount. On that basis the Hon'ble Bombay High Court granted the bail the present applicant. The learned counsel for applicant submitted that the amount of present crime is also involved in the amount of crime registered at Lasalgaon, Nashik. From the order in Spl. Case (MPID) No.24/2020 the learned Additional Sessions Judge, Chandrapur pleased to grant

the bail to applicant in similar crime on the ground that the entire prosecution is based on documents which were already seized by the police and in similar nature of offence arising out of same transaction the Hon'ble Bombay High Court released the applicant on bail. Further more the learned Additional Sessions Judge-7, Nagpur also granted the bail to present applicant in Cril. Appln. No.1980/2020 order dated 09/09/2020 on the ground that present applicant granted the bail in the similar crime by the various Courts. The Additional Sessions Judge-3, Parbhani also granted the bail to present applicant in Spl. Case (MPID) No.38/2020 by order dated 05/09/2020. The Additional Sessions Judge-1, Jalna granted bail to present application in Cri. Bail Appln. No.357/2020 and observed that by the order of Hon'ble High Court property of present applicant is came to attached and after selling it the amount of misappropriation is going to be recovered. The Additional Sessions Judge Ambajogai granted the bail to the present applicant in Cril. Bail Apln. No.126/2020 order dated 17/06/2020 wherein also it was observed that present applicant released by various courts and Hon'ble High Court in similar type of crimes. The learned Additional Sessions Judge, Kelpaur, Distt. Yavatmal also granted the bail to present applicant in Spl. Case (MPID) No.1/2018 and 2/2018 by order dated 14/10/2020. It has been observed that the various courts granted the bail to present applicant having similar allegations

against him on the count of completion of investigation and the fact that Hon'ble Bombay High Court released him on bail. The learned JMFC Paltan by order dated 04/03/2020 also granted the bail to present applicant. The learned Additional Sessions Judge, Satara also pleased the grant the bail to present applicant by order dated 09/10/2019 in Cril. Bail Appln. No.652/2019. In the present matter also after investigation charge-sheet came to be filed. The prosecution case is based on documentary evidence and all the documents have been seized by the police. The property worth Crore of Rupees belongs to applicant, his wife and brother already been attached and seized. Since long applicant is in jail therefore no purpose would be served by keeping him behind the bars. Therefore, considering all above aspects, in the present matter also applicant is entitled for bail.

ORDER

- 1) Application is hereby allowed.
- 2) The applicant/accused namely Satish Popatrao Kale R/o.Takli (Vinchur), Tq. Niphad, Distt. Nashik be released on bail on executing PB and SB of Rs.1,00,000/- (Rs. One Lakh) with one solvent surety in the like amount in connection with Crime No.1227/2017 of PS Awadhutwadi Yavatmal under Sections 420, 409 r/w.34 of the Indian Penal Code and Section 3 and 4 of MPID Act on following conditions -
 - (a) The applicant/accused shall not directly or indirectly make any inducement, threat or promises to any person acquainted with the facts of accusation, so as to dissuade them from disclosing such facts to the Court or to any police officer.

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- (b) He shall not tamper the prosecution witnesses and shall not commit the offence of similar nature.
- 3) Bail before trial Court.

Dt/-01/01/2021.

(M. Mohiuddin M. A.)
Additional Sessions Judge,
Yavatmal.