

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.658 OF 2024
(Arising out of SLP(Criminal) No.1078/2023)

NEENA BALWANT MARATHE

APPELLANT

VERSUS

STATE OF MAHARASHTRA

RESPONDENT

O R D E R

1. Leave granted.
2. The appellant seeks grant of pre-arrest bail in C.R. No.0064/2021, registered at Police Station Kothrud, District Pune, under Sections 406, 420 read with Section 34 of the Indian Penal Code, 1860 and Section 3 of the Maharashtra Protection of Interest of Depositors Act, 1999 (in short, "MPID Act"). The appellant and co-accused Manjiri Marathe are stated to be the Directors of Companies, M/s. Pranav Marathe Jewelers Pvt. Ltd. and M/s. Marathe Jewelers. The companies allured the depositors to make investments and which were allegedly misappropriated and siphoned for the private benefits of the Directors and other officers of the companies. The husband of the appellant was the main accused. He, unfortunately, committed suicide. In sum and substance, the allegations are that the companies run by the appellant and her co-accused are liable to refund a sum of Rs.6,20,77,970/-

(Rupees six crores twenty lakhs seventy-seven thousand nine hundred seventy) plus Rs.53,00,000/- (Rupees fifty-three lakhs) to the investors. Apprehending her arrest, the appellant approached the High Court of Judicature at Bombay for a grant of pre-arrest bail, but the same was declined vide impugned order dated 18.07.2022.

3. When this appeal came up for hearing on 20.01.2023, a statement was made on behalf of the appellant, as recorded in paragraphs 3 and 4 of the order, which are to the following effect:

"3. It is stated, *inter alia*, that the primary object of the MPID Act is to secure and protect the investment made by innocent investors. It is pointed out that as per the prosecution case, the petitioner is liable to return a sum of Rs.3,53,75,028/- to various investors, out of which the following amounts have been recovered by the Investigating Agency from the petitioner:

Sr.No	Date	Name of the Person (under whose name DD deposited/amount recovered)	Amount (in Rupees)
1.	19/04/2022	M/s Gayatree Skyscrapers	30,00,000/-
2.	24/05/2022	Vidya Waghmare	10,00,000/-
3.	08/06/2022	a) Vidya Waghmare b) Proinfra Developers LLP	64,00,000/- 20,00,000/-
4.	27/07/2022	M/s Gayatree Skyscrapers	80,00,000/-
5.	11/08/2022	M/s Gayatree Skyscrapers	40,00,000/-
6.	05/09/2022	a) Nitin Patkulkar b) Vidya Waghmare	29,00,000/- 57,812/-
7.	12/10/2022	a) Nitin Patkulkar b) Harish Shirodkar	14,00,000/- 1,54,000/-
8.	08/12/2022	a) Nitin Patkulkar b) Sanjay Nanivadekar c) Nitin Patkulkar	4,00,000/- 1,00,000/- 3,00,000/-
		TOTAL	2,97,11,812/-

4. As regard to the balance amount, learned Senior Counsel submits that the petitioner is making sincere efforts to arrange the same and is inclined to return the said amount also. On this premise, it is submitted that no purpose shall be served by putting the petitioner in custodial interrogation."

4. Thereafter, the matter was adjourned from time to time to ensure that the interest of the hundreds of investors could be duly protected. It was against this backdrop that the appellant was directed on 04.01.2024 to furnish an affidavit along with details of such immovable assets, which are free from encumbrances and are sufficient to discharge the existing liability towards the investors.

5. In deference thereto, the appellant has filed an additional affidavit dated 29.01.2024. The averments made in paragraphs 8 and 9 of the said affidavit are not disputed by learned State counsel. These paragraphs are to the following effect:

8. That it is thus respectfully submitted that the aforementioned amounts total up to Rs. 4,59,93,929/- (Rupees Four Crores Fifty Nine Lakhs Ninety Three Thousand Nine Hundred Twenty Nine Only) and is already available to discharge the liability of investors. It is pertinent to note that the said amount of Rs.4,59,93,929/- is available, without taking into consideration the immovable properties owned by the accused persons.

A copy of chart showing the amount available with the investigating Agency for discharging the liabilities of the investors is annexed hereto and marked as ANNEXURE-E. (Pg 25).

9. That it is further pertinent to note that the Additional Affidavit dated 03/01/2023 filed by the State of Maharashtra, clarifies that out of the 7 immovable properties attached, only 3 properties are encumbered, while 4 other properties are free from any encumbrance. The details of the said unencumbered properties attached and included in the proposal submitted to the State Government under section 4 of the MPID Act on 22/12/2023, are as under;

Sr. No.	Particulars	Valuation
1	Agricultural land admeasuring 01 Hectar, 91.60 Aar bearing Gat No.123/1 at Mauze Nive, Taluka Mulshi, District Pune in the name of Mr. Rajesh Anant Atre.	Rs.34,57,422/-
2	Agricultural land admeasuring 01 Hectar, 91.60 Aar, bearing Gat No.123/1 at Mauze Nive, Taluka Mulshi, District Pune in the name of Mr. Ravindra Govind Belsare.	Rs.34,57,422/-
<p>NOTE: Amount of Rs. 67,74,733/-was lent by M/s. Pranav Marathe Jewellers Pvt. Ltd. to M/s. Suvidha Realcon Pvt. Ltd., Mr. Rajesh Atre and Mr. Rajesh Anant Atre HUF. As a result, the bank accounts of M/s. Suvidha Realcon Pvt. Ltd. and it's directors have been debit freezed. The said Mr. Rajesh Anant Atre along with Mr. Ravindra Govind Belsare have offered their aforementioned agricultural land, which combinedly are valued at Rs. 69,14,844/- (Rupees Sixty Nine Lakhs Fourteen Thousand Eight Hundred Forty Four Only.) to be attached. The said land has been included in the proposal submitted to the State Government under section 4 of the MPID Act on 22/12/2023. The same is mentioned in the additional affidavit dated 03/01/2024 filed by the State of Maharashtra.</p>		
3.	Property bearing No. 120/4 situated in Village Sus, Taluka	Rs.27,60,165/-

	Mulshi, District Pune, recorded in the name of Mr. Bhima Pawar.	
4	Land bearing Survey No. 31 admeasuring 1H.87R situated in Village Thergaon, Taluka Mulshi, District Pune, recorded in the name of Gurumukh Jangaldas Sukhani.	Rs. 98,00,000/-
	Total	Rs.1,94,75,009/-

Thus, it is respectfully submitted that in addition to Rs.4,59,93,929/- available to discharge the liability towards the investors, the aforementioned unencumbered immovable properties having total valuation of Rs.1,94,75,009/- (One Crore Ninety Four Lakhs Nine Only.) are attached and are available to discharge the liabilities of the investors."

6. It is, thus, submitted on behalf of the appellant that the Investigating Agency/State of Maharashtra has already secured enough cash amount/immovable properties/jewellery/car to safeguard the interest and to discharge the liability towards the investors. It may be seen that while a cash amount of Rs.4,59,93,929/- (Rupees four crores fifty-nine lakhs ninety-three thousand nine hundred twenty-nine) is available with the State/Investigating Agency, the balance amount has to be recovered through the auction of the immovable properties mentioned in paragraph no.9 of the affidavit. It goes without saying that the actual amount, which is required to discharge the liabilities towards investors, will be available only

after auctioning of the immovable properties mentioned in paragraph 9 of the affidavit, as well as the jewellery and the car. In addition, the appellant has to ensure that the jewellery, which was seized in another case, is transferred to the MPID case to enable the State Authorities to auction the same.

7. The State of Maharashtra is, accordingly, directed to expedite the procedure that may be required to be followed before auctioning these assets. The needful shall be done within four weeks. Thereafter, the MPID Court, where the matter is pending, is directed to ensure that all these immovable/movable assets are auctioned in a transparent manner and the sale proceeds, along with the cash amount already lying with the State/Investigating Agency is disbursed to the investors without prejudice to the outcome of the criminal proceedings. The needful shall be done within three months from the date of sanction accorded by the State Government.

8. A compliance report shall be sent to the Secretary General of this Court.

9. In view of the subsequent events noticed above, the interim protection granted to the appellant on 20.01.2023 is made absolute, subject to the condition that she shall continue to appear before the Investigating Officer as and when required and if the chargesheet is filed against her, in that event, she will appear before the Trial Court save and except when she is granted exemption from such

appearance. In case the appellant absents herself from appearing before the Investigating Officer/Trial Court, the same shall be taken as a misuse of the concession of bail.

10. The appeal is disposed of in the above terms.

.....J.
(SURYA KANT)

.....J.
(K.V. VISWANATHAN)

New Delhi;
February 06, 2024

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s).1078/2023

(Arising out of impugned final judgment and order dated 18-07-2022 in ABA No.1561/2022 passed by the High Court Of Judicature At Bombay)

NEENA BALWANT MARATHE

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

(IA No. 11922/2023 - APPLICATION FOR PERMISSION, IA No.8385/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No.8391/2023 - EXEMPTION FROM FILING O.T., IA No.11927/2023 - EXEMPTION FROM FILING O.T.)

Date : 06-02-2024 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) Mr. Arunabha Choudhary, Sr. Adv.
Mr. Amol Chitale, Adv.
Ms. Shweta Singh Parihar, Adv.
Mr. Sarthak Sharma, Adv.
Mrs. Pragya Baghel, AOR

For Respondent(s) Mr. Samrat Krishanrao Shinde, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.
Mr. Aditya Krishna, Adv.
Ms. Raavi Sharma, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The appeal is disposed of in terms of the signed order.
3. All pending applications, if any, also stand disposed of.

(ARJUN BISHT)
COURT MASTER (SH)

(PREETHI T.C.)
COURT MASTER (NSH)

(signed order is placed on the file)