

ORDER BELOW EX. 01 IN CRIMINAL BAIL APPLICATION
NO. 173 OF 2022

{Sham Shashikant Adgaonkar Vs. The State of Maharashtra through
Sarkarwada Police Station}

This is an application under section 438 of the Criminal Procedure Code, 1973 for grant of anticipatory bail in crime no. 169 of 2020 registered with Sarkarwada Police Station under sections 406, 409, 420 and 120B read with 34 of the I. P. C. and sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

02] The applicant contended that he is permanent resident of Nashik having roots in the society. Originally, offence is not registered against them. Their company from time to time has paid the amount to the investors. He is innocent and not committed any offence. The offences registered are not attracted against him. The affairs of company are looked after by the accused in the case. They are already released on bail in criminal bail application no. 859 of 2020. Hence, parity applies to him. The valuation of assets of the company is more than the liability of the investors. Due to liquidity crunch, the amount cannot be returned. He is ready to repay the amount of the investors. But, Criminal Miscellaneous Application No. 116 of 2021 was rejected by the court as the investigation officer has changed. Hence, notice is issued to him on 17.01.2022 and he is under apprehension that he will be arrested. He is ready to abide by any conditions imposed by the court. Hence, he prayed for anticipatory bail.

03] I. O. filed say at Ex. 07 and APP filed say at Ex. 06. They have stated that the offence is of serious nature. The other two named accused are released on anticipatory bail on 30.07.2020. There is prima-facie case against the accused. Amount of around 8

crores is to be paid to the investors. The accused is Executive Director of the company. They have cheated the investors. His custodial interrogation is required. Around 18 properties are in the names of their relatives and they may dispose of the same. If the accused is released on bail, then, he may dispose of the properties and will again commit such offence. Hence, they have prayed for rejection of bail.

04] Heard the learned counsel for the accused and learned APP. They have argued as per the above stand taken.

05] I have gone through application, say, arguments and Police papers. It appears to the court that there is no name of this accused in the F. I. R. The main accused Mahesh Adgaonkar and Gokul Adgaonkar are released on anticipatory bail vide order in Cri. Bail Application No. 859 of 2020. Also, it appears to the court that the accused have several properties whose valuation is more than the liability of the investors. They have attempted to sell those properties and filed application before the court to sell the properties and to repay the amount of investors. So, their conduct now appears to be to repay the amount of investors. But, that application was rejected. The accused has deep roots in the society. Already, the other accused are released on anticipatory bail. Hence, parity applies. Considering all the above factors, accused is entitled for anticipatory bail on suitable terms and conditions. Hence, the following order.

ORDER

01] Application is allowed.

02] In the event of arrest, the applicant namely Sham Shashikant Adgaonkar be released on bail on executing personal bond of Rs. 50,000/- with one or more surety in the likewise amount each in crime no. 169 of 2020 registered with Sarkarwada Police Station under sections 406, 409, 420 and 120B read with 34 of the I. P. C. and sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999,

to the satisfaction of I. O.

- 03] He shall attend police station on dated 11.02.2022 and 12.02.2022 in between 11.00 a.m. to 02.00 p.m. and help to the Police in investigation and should attend the police station, as and when his attendances is required by the I. O.
- 04] He shall not create third party right, title or interest in any of the properties owned by his individually or jointly with any third person without the permission of the Court.
- 05] He 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 his from disclosing such facts to the court or to any police officer to tamper with the evidence.
- 06] He shall not tamper the prosecution evidence in any manner.
- 07] He shall not leave India without permission of this court.
- 08] He shall not commit similar type of offence.
- 09] He shall furnish his detailed address with proof and his mobile number.
- 10] Inform the concerned Police station accordingly.

Date : 09.02.2022

(R. R. Rathi)
Additional Sessions Judge-5,
Nashik.