

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR ANTICIPATORY BAIL) NO. 24969
of 2024**

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BHUPENDRASINH PARBATSINH ZALA
Versus
STATE OF GUJARAT

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Appearance:

MR BHADRISH RAJU, ADVOCATE WITH

MR TATSAT A BHATT(12760) for the Applicant(s) No. 1

MR HARDIK DAVE, PUBLIC PROSECUTOR for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 23/12/2024

ORAL ORDER

1. By way of the present application under Section 482 of the Bhartiya Nagrik Suraksha Sanhit, 2023, the applicant-accused hSas prayed for enlarging the applicant on anticipatory bail in connection with the FIR being **C.R. No.11201001240023 of 2024** registered with **C.I.D. Crime Gandhinagar Zone Police StationS, Gandhinagar** for the offences punishable under Sections 316(5), 318(4) & 61(2) of the Bhartiya Nyaya Sanhita, 2023, Section 3 of the Gujarat Protection of Interest of Depositors (In Financial Establishments) Act, 2003 and Sections 21 and 23 of the Banning of Unregulated Deposit Scheme Act, 2019.

2. Learned advocate for the applicant has submitted that the present FIR has been registered against the present applicant for the offences punishable under Sections 316(5), 318(4) & 61(2) of the Bhartiya Nyaya Sanhita, 2023, Section 3 of the Gujarat Protection of Interest of Depositors (In Financial Establishments) Act, 2003 and Sections 21 and 23 of the Banning of Unregulated Deposit Scheme Act, 2019. However,

there is no averment in the FIR as regard the present applicant having committed any default in payment of any money received towards deposits from the investors till the date of filing of the FIR, and therefore, an offence punishable under the provisions of GPID Act is not made out against the present applicant.

2.1 Learned advocate for the applicant has submitted that the punishment prescribed for the offences alleged against the present applicant is maximum imprisonment up to 7 years.

2.2 Learned advocate for the applicant has submitted that the present applicant had received the money from the depositors towards investment and had also promised them of return at the rate of 7% per-annum and accordingly, the applicant herein had continued to repay the amount with the said rate of return to the depositors till the accounts of the present applicant got freezed by the investigating agency. The applicant has not committed any default in such payments.

2.3 Learned advocate for the applicant has submitted that it is the case of prosecution that the present applicant had promised return at the rate of 18% to the depositors. However, the agreement, which had been entered into between the present applicant and the respective depositors, the present applicant had promised return at the rate of 7% per annum and in view of the provision of Section 92 of the Evidence Act, what had been entered into writing between the parties has to be believed and the oral promise made thereafter cannot be made admissible against the present applicant.

2.4 Learned advocate for the applicant has submitted that the

present applicant has sufficient arrangement to repay the amount, which has been received by him from various depositors, if the applicant is granted some protection and his accounts are defreezed.

2.5 Learned advocate for the applicant has submitted that the present applicant is also ready and willing to cooperate with the investigation, if some protection is granted to him.

2.6 Learned advocate for the applicant has submitted that there is no intention on the part of the present applicant to commit any offence, as alleged in the FIR.

2.7 Learned advocate for the applicant has submitted that the present FIR has been lodged against the present applicant by a person, who is a police personnel and none of the victims has come forward to lodge any FIR against the present applicant. That itself is indicative of the fact that the present applicant had not defrauded any of the depositors and had also made repayments of the amounts, which had been received by him towards investment. He, therefore, submitted to allow the present application and enlarge the present applicant on bail subject to suitable conditions.

3. Learned PP has opposed the present application, inter alia, contending that the present is a case of a systemic fraud played by the present applicant upon various victims as well as upon the State.

3.1 Learned PP has submitted that the present applicant had been issued a license for the activity of money lending and on

the basis of the said license, the applicant had accepted money from various victims towards deposits and had promised them of returns at the higher rate.

3.2 Learned PP has submitted that the applicant had received total amount of Rs.360 Crores in various bank accounts opened by him in the names of various firms owned and managed by him. The said amounts had thereafter, been transferred to various accounts and ultimately, the said amounts had been withdrawn by the present applicant in cash. Today, the present applicant is not in a position to repay the amount, which had been collected by him from various depositors towards investment.

3.3 Learned PP has submitted that the present applicant had committed default in repayment of the amount, which had been received from various depositors since the Year-2020 and there are several other offences registered against the present applicant after registration of the present FIR in various police stations.

3.4 Learned PP has submitted that the the present applicant had used the amount, which had been received by him from various persons for his personal use and had purchased the property both the movable and immovable from the said money. The present is a systemic fraud, which is a tip of the iceberg at present. He, therefore, submitted to dismiss the present application.

4. Heard learned advocates for the parties and perused the

material available on record. The present FIR has been lodged by the first informant, who is a Detective P.I. working in an Economic Offences Wing, CID Crime, Gandhinagar. From the record, it appears that the Home Department in the State Government had received an anonymous application against the present applicant for having committed a financial fraud. On the basis of the said application received by the CID Crime, a preliminary inquiry was carried out by the CID. During the said preliminary inquiry, the present applicant was summoned by the concerned agency. However, the present applicant had chosen not to remain present before the concerned authority at the stage of preliminary inquiry.

5. On the basis of the information received by the CID Crime, a raid was carried out at the place belonging to the present applicant and during the said raid, it came to notice that the present applicant had created several firms viz. BZ International Broking Pvt.Ltd., BZ Financial Services, BZ International Broking Financial Services, BZ Profit Plus, BZ Multitrader Brokerage Services, BZ Traders, BZ Capital Solutions LLP, BZ Group of Developers, BZ Group of Management and BZ Heavy Electronics Pvt.Ltd. Out of the aforesaid entities, except 2 entities, which were Pvt. Ltd. Companies, the other entities were non-registered organizations. These other firms, wherein the nature of partnership firms, wherein the present applicant and his father were the partners. Several bank accounts were opened in the names of these entities. The record indicates that the applicant herein had been issued a license for money lending by the concerned authority for undertaking the activity of money

lending in the are of District:Sabarkantha. However, the present applicant herein, on the basis of the said license issued to him for the activities of money lending, had approached various depositors stating that he had been authorized by the State Government for receiving the deposits from the public at large and had also promised them returns at the handsome rates. It is the case on the part of the present applicant that he had promised return at the rate of 7% per annum, whereas the material available on record indicates that the applicant herein had promised return at the rate of 18% per annum. Thus, the applicant herein had received funds from the various depositors in the accounts of entities mentioned herein above.

6. So far the amount received by the present applicant towards investment from the depositors comes to Rs.3,60,72,65,524/-. The applicant herein while receiving the deposits, had also promised the depositors of return gifts like 32 Inch T.V., Mobile Phone or a trip to Goa. After having received the said amount from the depositors, the applicant herein had continued to repay the said amounts for some time. The material available on record indicates that the applicant herein started making defaults for repayments since the Year-2022, and therefore, it does not appear to be correct on the part of learned advocate for the applicant to contend that since there were no defaults committed by the present applicant till registration of the present FIR, the offence under the GPID Act is not made out against him. It is sought to be contended on behalf of the applicant that no depositors have come forward to lodge any FIR against the present applicant. Be that as it may, the fact remains

that the applicant had committed default in repayment of the amounts of deposits with the returns since the Year-2022.

7. The record also indicates that the amount, which had been received by the present applicant from various depositors had been put by him for personal use and had also purchased the immovable as well as movable properties from the said money in his own name. The record also indicates that the applicant was also running an educational institution in the name of Grow More Foundation Trust. The said educational institution had received Rs.81 lacs from the State Exchequer towards grant. Out of the said amount of Rs.81 lacs, the applicant herein had transferred the amount of Rs.75 lacs to the account of BZ Financial Services, and thereafter, the said amount had been utilized for his personal use. The said educational institution had also obtained loan of Rs.10 crores from the Unity Small Bank for renovation work of building of the educational institution. The amount of Rs.6 crore out of the said amount of loan of Rs.10 crore towards the first installment of loan had been received in the account of said educational institution. The said amount had also been transferred by the present applicant to the account of BZ Profit Plus Advisors on 25.04.2024. Another amount of Rs.1 crore had also been transferred by the present applicant to the account of BZ Profit Plus Advisors on 08.05.2024. On 15.07.2024, the applicant again transferred the amount of Rs.90 lacs out of the amount of Rs.1,65,00,000/-, which had been received by the said educational institution towards the 2nd disbursement of the loan amount from the Unity Small Bank. Again on 01.10.2024, the said educational

institution had received the amount of Rs.2 crores from the Unity Small Bank towards disbursement of the loan amount. Out of the said amount, the amount of Rs.49 lacs had been transferred by the present applicant to the account of BZ Profit Plus Advisors on 25.10.2024. The record also indicates that the applicant herein had issued cheques in the name of Shamalsinh Abhesinh Jhala, who was working with him as a Driver. The cheques, which were used by the present applicant in favour of the said Shamalsinh Jhala come to the tune of Rs.62,40,000/-.

8. The investigation carried out so far indicates that the present appears to be a large scale scam committed by the present applicant, wherein the large number of people appear to have been duped by him. Having regard to the same, no case is made out to release the present applicant on bail. Hence, the present application stands dismissed.

GIRISH

(M. R. MENGDEY,J)