IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Criminal Application No.504 of 2015

1) Sheshrao s/o Laxmanrao Ghule.

2) Satish s/o Shivajirao Paul.
(also named as "Pol"). .. **Applicants.**

Versus

* The State of Maharashtra. .. **Respondent.**

Shri. Rajendrraa Deshmukkh, Advocate, for applicants.

Shri. M.M. Nerlikar, Additional Public Prosecutor, for respondent.

With

Criminal Application No.703 of 2015

Balasaheb S/o. Sudamrao Jadhav. .. **Applicant.**

Versus

State of Maharashtra. .. **Respondent.**

Shri. Kartik Mundhe, Advocate, for applicant.

Smt. M.A. Deshpande, Additional Public Prosecutor, for respondent.

With

Criminal Application No.791 of 2015

Balasaheb S/o. Murlidhar Yadav. .. **Applicant.**

Versus

State of Maharashtra. .. **Respondent.**

Shri. Kartik Mundhe, Advocate, for applicant.

R.P. Phatke, Additional Public Prosecutor, for respondent.

With

Criminal Application No.794 of 2015

Dattatraya alias Datta s/o Prabhakar Mapari. .. **Applicant.**

Versus

State of Maharashtra. .. **Respondent.**

Shri. Rajendrraa Deshmukkh, Advocate, for applicants.

Shri. R.P. Phatke, Additional Public Prosecutor, for respondent.

CORAM: T.V. NALAWADE, J.

DATE : 9th MARCH 2015

ORDER:

1) All the applications are filed for bail. The first application is filed by two accused persons like Sheshrao Ghule and Satish Paul (also named as Pol). The second application is filed by Balasaheb Jadhav. The third application is filed by Balasaheb Yadav and the last application is filed by Dattatraya Mapari. Charge sheet is filed against them for offences punishable under sections 420, 406, 467, 120-B etc of the Indian Penal Code; sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, 1999, sections, 4,5 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and also under section 66(D) of the Information Technology Act. Crime was registered at CR No.I-187/2014 in Jawahar Nagar Police Station (Economic Wing), Aurangabad.

2) Report was given by one Smt. Nanda Patil, resident of Aurangabad. The papers of investigation show that the main accused are the members of family of Shri. Deepak Parkhe. This person and his wife Divya Parkhe registered one company by name "Super Power

Investment Services India Ltd." on 26-7-2011. Most of the Directors of this Company were members of their family except one Director. Deepak was shown as C.M.D. on the record. Even prior to the registration of the company most of the applicants from the present proceedings were made members of the core committee of the company and they were also working as agents of the company.

3) The Directors and the agents of this company made false representation to public at large and wide publicity to the schemes of the company was given. Promise was given to return two to three times of the amount invested to the investors within short time. Seminars were arranged in many cities to attract the investors and chain system for investment was created to promote the schemes. Promises were given to the investors and also to the agents of car, flat, motor cycle and even gold ornaments and there was also award of Rupees one crore. Handsome commission was given to the agents to collect the investors. The schemes were put on web site of the company.

4) Shri. Parkhe opened accounts in State Bank of India at Nashik and Aurangabad and he got printed vouchers of the company which were similar to the cheques of the bank. This was done to deceive the investors. The company gave in advance post-dated cheques in the name of interest and the return of investment to convince the investors. Amount of crores of rupees was collected. To show that the company was making investment of the amount, many other companies, as follows were created :

(1) Super Vision Infrastructure Pvt. Ltd.
(2) Superpower Developers and Construction.
(3) Indian Broking Ltd.
(4) Super power vision agro infra ltd.
(5) Angle Broking ltd. and
(6) D.C.B. Multilevel marketing Pvt. Ltd.

5) The complainant approached the company in October 2013 after reading the advertisement of the company. She made inquiry with the members of the Parkhe family and they supplied aforesaid information about the schemes. Other persons like present applicants Sheshrao Ghule and Satish Poul also made false representations to her. Due to false representations, she

made investment. Her relatives also made investment and they invested an amount of Rs.20.85 lakhs. Post dated cheques were given to her as per the *modus operandi* mentioned above.

6) The complainant could not get the returns and initially different excuses were given to her. Then the office of the company was closed. There is record of the statement of the landlord where the office was situated to the effect that the company has returned back the possession. When she realised that she was cheated she gave report to police on 25-7-2014. She produced record like vouchers, post-dated cheques etc given to her. She also produced record showing that she had paid the aforesaid amount to the company as investment.

7) The submissions made show that till this date at least 423 similar complaints are received by police from the investors. Though it appears that most of the accused including the Directors are arrested, only some portion of the amount misappropriated could be recovered.

8) As against applicant Ghule there is allegation that he received amount of Rs.21.65 lakh from the company as commission. He received some benefits in the name of prize also. Forms of the company and other record was recovered from his residential place. It appears that from the benefits received he purchased one Indica Car worth Rs. 6,00,000/-, one motor cycle worth Rs.50,000/-. He purchased immovable property under two different sale deeds. He sold one of the properties and it can be said that one property is seized in the present case.

9) Submissions were made by the learned counsel for accused Ghule that he had invested Rs.18.5 lakhs in the same way in the company and he is cheated by Parkhe family. He submitted that the investigating agency has already recovered the property worth Rs. 8 lakh from him. It was submitted that he has been behind the bars for more than three months now and it is not certain as to how much time will be required for disposal of the case. The investigating agency is still collecting the material.

10) As against Satish Paul (Pol) there is allegation that he made 17,856 members, investors. He received benefits in different forms like expenses for Goa tour, lap top, motor cycle wroth Rs.50,000, Rs.2.5 for purchasing car, amount of Rs. 6 lakhs for purchasing gold jewelery and amount of Rs. 15 lakh for purchasing flat. From this accused the investigating agency has recovered one Scorpio car worth Rs. 6 lakh and two sale-deeds of immovable property and statement was made that this property is seized as stolen property. Learned counsel for this accused made submission that he had invested amount of Rs.18.5 lakh in the company and he is deceived by the company. The other submissions made by the learned counsel for this applicant are similar to the submission made for accused Ghule.

11) As against applicant Balasaheb Yadav there is allegation that he brought 4549 investors to the company and those persons made investment. In turn, he got commission/incentive in different ways from the company. He got Rs.6.58 lakh in cash, he got Rs.2.5 lakh for purchasing car and he got gold jewelry worth Rs. 6 lakh.

total benefit received by him was more than Rs.8,50,000/-. Submissions made show that one car purchased by him from the aforesaid amount is seized.

12) As against accused Mapari there is allegation that he brought 5028 members to the company who made the investment. In turn, he got Rs.5.28 lakh as the commission. He got other benefits like lap top, amount of Rs.45,000/- for purchase of motor cycle, amount of Rs.2.5 for purchasing car and gold jewelry worth Rs.6 lakh. Submission is made that one Scorpio car was recovered from him as the property made by him from the aforesaid amount. Submission was made for him that he invested amount of Rs.17.35 lakh in the company and he is deceived by the company.

13) The submissions made show that the applicant Jadhav probably received the benefits in different way worth Rs.5 lakh.

14) Submissions were made for the State that the investigating officer has taken steps for attachment of the

property seized in the present case under the provisions of the Maharashtra Protection of Interest of Depositors Act, 1999. Such proposal is made to the authority under the Act. In view of this submission, learned counsels for the applicants made statements that the applicants undertake not to make any transaction in respect of the property seized in the present case without permission of the Court. By way of precaution copy this order can be sent to the revenue authorities and the registering authority to see that no transactions are made in respect of the properties seized. The investigating officer can produce copy of this order along with list of property seized before such authority for implementation. The Registrar (Judicial) of this Court also to do the needful in this regard.

15) The submissions made and the record show that Parkhe family hatched conspiracy and they first attracted the investors by promising to give handsome returns as interest and also amount collected from the investors. This amount was not invested and the amount was kept with them as "top-up money" and the entire

money was misappropriated. It can be said that they must have made huge property by using this money of the investors. It is up to the investigating agency to see that the entire property made by the accused involved in the case is recovered and the interests of the investors are protected. Complaints are pouring in and the investigation is still going on though charge sheet is filed. It can be said that more cases can also be filed against the persons who were involved in the offence if more complaints are received.

16) This Court has granted bail to persons like Shivajirao Paul who is probably a relative of applicant Pol and Pradhan Adhe. Considering the role played, Shivajirao Paul was directed to deposit Rs. four lakh and Adhe was directed to deposit Rs. 2 lakh as the stolen property which is to be accepted as the property in the crime. It appears that the other Hon'ble Judge of this Court has granted bail to one employee of the company against whom no such condition is imposed. As the applicants are behind the bars for many months and it is not certain how much time will be required for disposal of the case this Court holds

that it is not desirable to keep these applicants behind the bars till disposal of the case.

17) In the result, Criminal Application Nos. 504 of 2015, 703 of 2015, 791 of 2015 and 794 of 2015 are allowed.

(I) The applicants Sheshrao Ghule and Satish Paul (Pol) from Criminal Application No.504/2015 are to deposit Rs.4,00,000/- (Rs. Four Lakh only) each in the aforesaid crime. This amount is to be accepted as the property from the crime. After deposit of this amount these applicants are to be released on bail in Crime No.I-187/2014 registered at Jawahar Nagar Police Station, Aurangabad for offences punishable under sections 420, 465, 467, 468, 471, 107, 109, 114, 120(B), 34 etc. of the Indian Penal Code, sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, 1999 on furnishing PR and SB of Rs. two lakh (rupees two lakh) with one or more solvent sureties of such amount by each.

(II) The other applicants Balasaheb Sudamrao Jadhav, Balasaheb Murlidhar Yadav, and Dattatraya Mapari are to be released on bail only after they deposit Rs.2,00,000/- (Rs. Two Lakh only) by each of them in the aforesaid crime. This amount is to be accepted as the property from the crime. After deposit of this amount these applicants are to be released on bail in the aforesaid crime on their furnishing PB and SB of Rs. 1,00,000/- (Rs. one lakh) by each of them.

(III) All the applicants are not to tamper with prosecution witnesses. They are not to commit similar offences. They are not to leave Maharashtra State without permission of the concerned Sessions Court. They are to surrender their passport, if any, before the police before their release on bail.

(IV) Registrar (Judicial) to send a copy of this order to concerned Collector for taking entry of the order in the record of the property shown to be seized in this case. The Investigating Officer to give list of the property to the Registrar (Judicial) for sending the same to the Collector.

Copies are to be sent to the office of the Sub Registrar for getting entry. Hamdust is given to the investigating officer as he is expected to take similar steps and he is expected to take steps for attaching the property under the aforesaid Act.

Sd/-
(T.V. NALAWADE, J.)

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