IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3160 OF 2017

1. Maya Dadasaheb Bhusari ... **Applicants**
Age 33 years, Occu: Housewife

2. Puja Sachin Bhusari
Age 29 years, Occu: Housewife

Both r/o Shriram Colony,
Vikhe Foundation Road, Shevgaon,
Taluka Shevgaon,
Dist. Ahmednagar.

VERSUS

The State of Maharashtra ... **Respondent**
Through Shevgaon Police Station
Dist. Ahmednagar

Mr. Aniruddha A. Nimbalkar, Advocate for the applicants
Mr. A.R. Borulkar, APP for the State.

CORAM : K. L. WADANE, J.

DATE : 18th July, 2017

ORDER:

1. Heard Mr. Nimbalkar, learned counsel for the applicants and Mr. Borulkar, learned APP for the State.

2. Present Criminal Application is filed under section 438 of the Code of Criminal Procedure for grant of anticipatory bail in connection with Crime No. 160/2017, registered with Shevgaon Police Station, Taluka Shevgaon, Dist. Ahmednagar for the offences punishable under sections 420, 468, read with section

34 of the Indian Penal Code.

3. On 27.04.2017, one Shrikant Vitthalrao Kale lodged complaint against the applicants and other accused persons alleging that husband of applicant No.1 namely Dadasaheb Bhusari lured the complainant to deposit money in their Company and the Company of another accused namely Sachin Busari i.e. husband of of applicant No.2 assuring that he would get one and half times more money of his investment within a period of two years. Believing on the assurance of said Dadasaheb Bhusari, the complainant deposited an amount of Rs.11,00,000/- in the Company of Dadasaheb Bhusari by name D.S. Bhusari Multi-services & Trading Co. and an amount of Rs.2,15,000/- in the Company of Sachin Bhusari by name Swapnapurti Infrastructure. However, even after the agreed date of maturity, the said Dadasaheb Bhusari and Sachin Bhusari did not return the promised sum to the complainant. On the basis of information given by the informant, offence came to be registered against the present applicants and other accused persons.

4. Mr. Nimbalkar, the learned counsel appearing for the applicants submits that the present applicants are

housewives and they were not actively participating in the business of the above-said firms. On query, the learned counsel appearing for the applicants submits that Dadasaheb Bhusari and Sachin Bhusari i.e. husbands of applicant Nos.1 and 2 respectively, who are real brothers, inter se formed partnership firms, in which the present applicants are designated as partners. However, they are not looking after the business and the business is looked after by their husbands.

5. I have gone through the papers of investigation, from which, it appears that allegations of representation are against accused Dadasaheb Bhusari and Sachin Bhusari. There is no allegation against the present applicants that they have represented and requested the investors to deposit money assuring good returns within short period.

6. I have perused various copies of fixed deposit receipts. All those receipts are either signed by Dadasaheb Bhusari or Sachin Bhusari. Therefore, prima facie, it appears that actual business of the above firms is carried or run by the husbands of the present applicants.

7. Mr. Nimbalkar, the learned counsel relied on

the judgment in the case of **Rafique Abdul Malik & ors. Vs. State of Maharashtra, reported in 1996(DGLS(Cri.) Soft 737**, wherein, in para 24, it has been observed by this Court, as follows:

> " It is common knowledge that many times the ladies are shown Directors or Office bearers only for the name sake or for the purpose of distribution of income for the purpose of income tax, and this seems to be the case with this petitioner. She has stated in her petition that she is essentially a house wife and having children against of whom is only 10 years old and needs to be looked after by her. Her occasional visits at the office of the company of which she was one of the Directors, would not go to show that she was vitally concerned with the management of the said company."

The above observations are applicable to the facts of the present case because, in the present case, charge sheet is filed and from the statement of witnesses, nowhere it is seen that the present applicants were actually dealing with the business of the firms or they have represented, tempted to the investors to deposit money in the aforesaid firms, assuring good returns. Therefore, prima facie, it appears that the applicants are not active partners and not dealing with with the business of the above firms and all the business was looked after by their husbands.

8. In view of the above, by putting certain conditions, the applicants can be protected from their arrest. Hence following order:

O R D E R

i. In the event of arrest of the applicants in connection with Crime No. 160/2017, registered with Shevgaon Police Station, Taluka Shevgaon, Dist. Ahmednagar, they shall be released on bail on their executing P.R. Bond of Rs. 50,000/- [Rupees Fifty thousand] each, with one solvent surety in the like amount.

ii. The applicant shall not tamper with the prosecution evidence in any manner.

iii. The applicants shall not leave Ahmednagar District without prior permission of the concerned Additional Sessions Judge before whom the trial is pending.

iv. Criminal application disposed of.

(K. L. WADANE, J.)

JPC