IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.426 OF 2019

Sachin s/o Ramkrushna Gurav & Anr.] … Applicants

Versus

The State of Maharashtra] … Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.565 OF 2019

Dipak Sharad Chavan] … Applicant

Versus

The State of Maharashtra] … Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.566 OF 2019

Uajjwala Liladhar Borse & Anr.] … Applicants

Versus

The State of Maharashtra] … Respondent

Mr. Arvind Tiwari i/b Mr. Santosh Patil, Advocate for the Applicants in ABA No.426/2019.
Mr. M.N. Sandhyanshiv, Advocate for the Applicants in ABA No.565/2019 and ABA No.566/2019.
Mr. Prashant Jadhav, APP for the State/Respondent.
API Bhushan Burade attached to Gangapur Police Station, Nashik present.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 19th JULY, 2019.

P. C. :-

1. All these applicants are seeking anticipatory bail in connection with C.R.No.I-10/2019 registered at Gangapur Police Station, District Nashik u/sec. 420, 406 r/w 34 of I.P.C., and u/sec. 3 and 4 of Maharashtra Protection of Interests of Depositors (in Financial Establishments) Act, 1999 (M.P.I.D. Act).

2. All these applications are being decided by this common order because they arise out of the same investigation in connection with the same offence.

3. The FIR in this case is lodged by one Kishore Patil on 10/01/2019. He has mentioned in his FIR that, on 03/08/2018, he came to know about M/s. Karmabhumi Marketing Pvt. Ltd., through their advertisement placed in a newspaper. The company held a seminar on 03/08/2018 at Nashik which was attended by the first informant and his friends. It is alleged that the Managing Director Sharad Chavan, Vice Chairman Deepak Chavan, Admin Chhaya Chavan and the present applicants were Directors of the said

company. They were present at the seminar. The applicant Sachin Gurav is described as Development Director and the applicant Sanjay Upadhye is described as Software Operator. It is further mentioned in the FIR that the investors were introduced to the scheme where the investors were invited to invest their money. In return, they were assured handsome profit and bonus. Similar seminars were held on 21/08/2018, 08/09/2018 and 03/11/2018. It is mentioned in the FIR that, the scheme was such that on the investment, the investors were given user ID and passwords. The promised amount and other returns were to be deposited directly in bank accounts of the investors. Initially, good returns were received by the investors, therefore, they including the present informant invested bigger amounts. The FIR mentions that, the informant and his friends invested Rs.1,35,000/- through on line transaction. However, subsequently their money was not returned neither any bonus was paid to them. The promised interest was also not given. Therefore, they time and again went to the office of the company where all these applicants and other accused used to be present. They used to assure the investors that after a few days, their money would be returned. But, it was never returned. Therefore, the FIR was lodged.

4. Heard Mr. Arvind Tiwari, Ld. Counsel for the Applicants in ABA No.426/2019, Mr. M.N. Sandhyanshiv, Ld. Counsel for the Applicants in ABA No.565/2019 and ABA No.566/2019 and Mr. Prashant Jadhav, Ld. APP for the State/Respondent.

5. Ld. Counsel for the applicants in ABA No.566/19 representing the applicant Uajjwala Borse @ Prachi Chavan and the applicant Kavita Deore @ Mai Chavan submitted that two other accused namely Mangalabai Sharad Chavan and Rupesh Rajendra Patil who had allegedly played similar roles were granted anticipatory bail by the Additional Sessions Judge – 4, Nashik vide order dated 09/07/2019 passed in BA No.1140/2019. It is stated before me that Rupesh Patil is described as Bunty Patil in the FIR. The allegations in the FIR vis a vis accused Mangalabai Sharad Chavan and Rupesh Rajendra Patil are similar to the allegations against the applicants Uajjwala Borse @ Prachi Chavan and the applicant Kavita Deore @ Mai Chavan. The FIR makes a joint reference to these applicants as being directors of the company.

6. Ld. APP on instructions makes a statement that bank accounts of applicants Uajjwala and Kavita did not show any money having been deposited therein.

7. In this view of the matter, the applicants Uajjwala Borse @ Prachi Chavan and the applicant Kavita Deore @ Mai Chavan have made out a case for the protection of anticipatory bail.

8. In so far as Dipak Sharad Chavan is concerned, Ld. Counsel appearing for him submitted that he is 21 years of age and at present is studying at Sinhagad Institute of Hotel Management. He submitted that even as per the allegations, the master mind was his father Sharad Chavan who was arrested and was released on bail after spending about 60 days in custody. He therefore submitted that the investigation is already carried out. He further submitted that Dipak is son of Sharad Chavan and he did not have any role in the entire scheme.

9. Ld. APP submitted that large amount is deposited in the account of the present applicant Dipak and there are statements that he also induced other investors to invest in the scheme.

10. However, considering the fact that the applicant is a student and the master mind of the scheme was his father, at this stage some leniency can be shown to him. He can be given directions to co-operate with the investigation instead of directing his custodial interrogation. In case, he is arrested his entire future will be ruined for the acts mainly committed by his father. This applicant is dependent on his father. Therefore, I am inclined to grant protection to him as well.

11. In so far as other applicants i.e. Sachin Gurav and Sanjay Upadhye are concerned, Ld. Counsel appearing for them pointed out that the first informant Kishore Patil had given a written complaint to the Police Commissioner, Nashik City, Nashik on 07/01/2019. The said complaint mentions the same allegations as mentioned in the FIR. The said complaint contains the list of victims with their signatures. The list interestingly contains names of the applicant Sachin Gurav and Sanjau Upadhye at Sr. No.68 and 69. He therefore submitted that, the first informant was very well aware of their status as victims. After only two days i.e. on 10/01/2019 when he lodged the complaint, the names of these applicants were removed from the list

of victims and were included in the list of accused mentioned in the FIR. He therefore submitted that, the applicants are the real victims and no offence is made out against them.

12. Ld. APP submitted that, there is incriminating material against these applicants. One Papa Abdul Karim Beg has stated that these two applicants Sachin Gurav and Sanjay Upadhye had collected Rs.1,72,970/- from him and he was given 51 ID. However, he did not receive his money. Thus, according to Ld. APP there is material to show that, these two applicants had collected money from other investors.

13. Ld. Counsel for the these applicants submitted that, the scheme was a brainchild of main accused Sharad Chavan. The applicants Sachin and Sanjay were induced by the main accused to invest money in the scheme. Like every other investor, they also believed in the scheme initially till they lost their money. The witness Papa Beg had not initiated any complaint against these two applicants. He was given I.D.'s corresponding to his investment. Therefore, his money has gone to the scheme. He has lost his money in the scheme. There

is nothing to show that, the applicants have misappropriated his amount. These applicants had invested their own amounts in the scheme and had lost their money.

14. Ld. APP on instructions makes a statement that, the present applicants have not received anything in their account through this scheme. Thus, there is enough force in the submissions of Ld. Counsel for the applicants that they have lost their own money in the scheme and were not the beneficiaries. In this view of the matter, even they have made out a case for anticipatory bail. Hence, the following order.

ORDER

1. In the event of their arrest in connection with C.R.No.I-10/2019 registered at Gangapur Police Station, District Nashik, the Applicants are directed to be released on bail on their furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties each in the like amount.

2. The applicants shall attend the concerned police station as and when called and shall co-operate with the investigation.

3. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)