

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1853 OF 2021**

Purshottam Madhav Hasamnis ... Applicant

Versus

The State of Maharashtra ... Respondent

WITH

INTERIM APPLICATION NO. 2368 OF 2021

IN

CRIMINAL BAIL APPLICATION NO. 1853 OF 2021

Sanjay Kerba Durge and Ors. ... Applicants

IN THE MATTER BETWEEN

Purshottam Madhav Hasamnis ... Applicant (Ori. Accused)

Versus

The State of Maharashtra ... Respondent

Mr. Aanand S. Patil, for the Applicant.

Mr. H. J. Dedhia, APP, for the State.

Mr. D. V. Sutar a/w Nirmal Pagaria, for the Intervener in IA No. 2368/2021.

CORAM : V. G. BISHT, J.

RESERVED ON : 25th October, 2021.

PRONOUNCED ON : 15th November, 2021.

PC:-

. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No. 764 of 2018 registered with Shahupuri Police Station, District-Kolhapur, for the offences punishable under Sections 120-B, 406, 420 r/w 34 of the Indian Penal Code and Section 3 of Maharashtra Protection of Interest and Depositors Act, 1999.

2 It is the case of prosecution that according to informant, Maker Group of India is a private company established in the year 2010 having its Head Office at Pune. Since 2011 said company started its branch at Kolhapur. Co-accused Dnyandev Kurundwade and the applicant-accused were the office bearers of the Kolhapur branch and were acting as Chief Agents. The prosecution alleges that the applicant and co-accused induced the informant and others to invest their moneys in the said company. Not only they invested their moneys but also started working as agents.

3 The prosecution next contends that in the year 2013, the Chairman and Managing Director of the said company, namely, Ramesh Valase Patil and Manohar Ambulkar, development Director through the applicant and co-accused Kurundwade held seminars and gave

Rekha Patil

information to the people how to invest the moneys in their company, profits they would get in monthly investment and yearly investment. They also showed the photograph of their construction site and informed about their immovable properties. It is further alleged that approximately 2500 to 3000 people were present and they trusted in the inducement and enticement of all the accused in the said company. However, till date they did not get a single penny by way of return. Accordingly, the FIR came to be registered.

4 Mr. Patil, learned Counsel for the applicant, submits that in all 23 accused have been roped in of which applicant-accused is at Sr.No. 18. Not only, like informant, the applicant was an agent of the company but he also invested around 35 lakhs in the said company by taking borrowings from his acquaintances. It is not that he in any way was beneficiary of the deposits taken by the said company. The applicant was also not the part of management and simply acted as an agent on behalf of the Directors of the company.

5 Learned Counsel then next submits that the entire case is based on documentary evidence. The whole documentary evidence is in custody of accused Nos. 1 and 2. There is nothing to be recovered from the

applicant. The investigation of the case is already completed and charge-sheet has been filed. Besides, the applicant is a resident of Kolhapur having movable and immovable property and therefore, there is no question of his abscondance from the justice. For all these reasons, applicant deserves to be enlarged on bail, argued learned Counsel.

6 Mr. Dedhia, learned APP, on the other hand, vehemently opposed the contention by inviting my attention to the FIR and would submit that the applicant actively participated in the affairs of company and on behalf of company induced investors including the informant as he was Head of Kolhapur Branch. Learned APP invited my attention to the part of Affidavit filed by Investigating Officer pointing out the number of properties standing in the name of applicant. According to learned APP, these properties were purchased by misusing the funds of investors in respect of which the investigation is going on. In the circumstances, if the applicant is released on bail there is possibility of his fleeing from justice.

7 Mr. Patil, learned Counsel for applicant, by way of rejoinder would submit that the properties pointed out by learned APP from the

Affidavit of Investigating Officer are part of dealing of the company and transactions are yet to be completed. Even otherwise these transactions have nothing to do with the allegations made in the present FIR.

8 I have gone through the investigation papers including the FIR. At the very outset I may point out, which is not disputed by the prosecution, that the informant in the present case was also an agent of the said company like applicant herein. The informant also had canvassed history of said company and himself was a investor. There is also no dispute to the submission of learned Counsel for the applicant that the applicant has invested huge amount of Rs. 35 lakhs in the said company in order to reap the benefits of the investments as assured by the company.

9 From the record, I may note here that there is a complaint dated 21/08/2020 filed with EOW by one Advocate Vidya Prakash Patil (Ingavale) and Prakash Gangadhar Patil against Maker Agro Estate Private Limited Company. According to complainants they had invested moneys in the said company. This complaint was against the Chairman of the company Ramesh Mahadev Valase and Manohar Santram Ambulkar and Vijay Ransuve as they did not get their moneys back with

interest as assured, they were compelled to file the complaint. Interestingly, these complainants are from Kolhapur. It is also to be noted here that the prosecution has alleged that the applicant was the Head of the branch of Kolhapur of the said company. However, in the complaint it is nowhere alleged about any role played by the applicant.

10 There is a statement of Sandip Dattatray Deshmukh, a prosecution witness. According to him, he also had taken an Agent Code by depositing Rs.500/- in the name of his aunt, namely, Jayashree Pradeep Deshmukh. There used to be meeting in the said company every month wherein present applicant and others used to remain present. However, according to this witness the whole responsibilities of Kolhapur office was of Manohar Santram Ambulkar. This clearly goes to show that the applicant was not associated with the management or affairs of the Head Office of the company at Kolhapur.

11 Then there is statement of Milind Dhanpal Kininge, who is one of the investor. According to him, the Chairman of the company Ramesh Valse Patil and Manohar Ambulkar met him and other investors and showed their agricultural land of about 250 acres and also 30 NA plots abutting to Latur highway and thereafter they believed in the scheme of

the company and accordingly made investment.

12 Ashok Eknath Khot was also an agent, who was introduced by a Chairman Manohar Ambulkar, and accordingly invested in the said company.

13 Thus, from the above, what emerges is that the applicant like informant was an agent of the company in question. It may be that they might have canvased various schemes of the company but the same role can be attributed to the informant as well. Really speaking it are Ramesh Valase Patil, Chairman and Manohar Ambulkar, Development Director, who are the main persons, looking after all other management and affairs of the company. It is also not the case of the prosecution that the applicant was not only part of management but was actively seen in the affairs of the company and also was actively involved in promising prospects of company or was holding any profit from the share of the company. Nothing is on record to show that he looked after day-to-day affairs of the company.

14 No criminal antecedents are brought on record. The whole case is based on documentary evidence and investigation is completed in the

matter. For the aforesaid reasons, in my considered opinion, since the custody of the applicant is no more required, it would not be of any advantage to keep him behind the bar.

15 In view of above, I am inclined to allow the application. Hence, the following order.

ORDER

(i) Applicant- Purshottam Madhav Hasamnis shall be released on bail in C.R. No. 764 of 2018 registered with Shahupuri Police Station, District-Kolhapur on his executing P .R. bond in the sum of Rs.50,000/- with one or more sureties in like amount.

(ii) The applicant shall not tamper with the prosecution evidence and shall attend the trial regularly.

(iii) The applicant shall not leave the jurisdiction of the trial court without prior permission of the trial Court.

(iv) The observations made herein-above are prima-facie in its nature for the purpose of deciding the bail application only. The trial Court shall not be influenced by the observations while deciding the case on merits.

(v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(vi) The application is allowed in the aforesaid terms.

(vii) In view of the order passed in Bail Application No. 1853 of 2021, Interim Application does not survive and the same is disposed of accordingly.

(V. G. BISHT, J.)