

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1893 OF 2021

Ali Nawaz Imamhusain Sayyed ...Applicant
Versus
The State of Maharashtra ...Respondent

ALONGWITH
CRIMINAL INTERIM APPLICATION NO. 2334 OF 2021

Sarfraz Amir Shaikh ...Applicant
Versus
The State of Maharashtra ...Respondent

ALONGWITH
CRIMINAL INTERIM APPLICATION NO. 2333 OF 2021

Fahim Ahemad Maksud Ahemad Siddiqui and Anr. ...Applicants
Versus
The State of Maharashtra ...Respondent

Mr. Rajendra Rathod a/w Mr. Sohail Ahmed for the Applicant in
BA/1893/2021.

Mr. Ritesh Thobde for the intervenor in BA/2334/2021.

Mr. Prashant C. Mohite a/w Mr. S.Turkey Illahi for the Applicant in
IA/2333/2021.

Ms. Anamika Malhotra, A.P.P for the Respondent-State.

Mr. Ghadage, API, EOW, Solapur City.

CORAM : REVATI MOHITE DERE, J.
DATE : 29th SEPTEMBER, 2021

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 151 of 2020 registered with the Vijapur Naka Police Station, Solapur, for the alleged offences punishable under Sections 420, 406, 120B, 34 of the Indian Penal Code; and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, 1999.
3. Learned Counsel for the applicant submits that the allegations as against the applicant are false and baseless. He submits that infact, the applicant was induced by co-accused Akibkhan to become a Director of Al-hilal Business Concept Pvt.Ltd, Solapur, pursuant to which, he became the Director. He submits that infact, the applicant's family believing Akibkhan invested a sum of Rs. 54,00,000/- in the said company i.e. Al-hilal Business Concept Pvt.Ltd, Solapur, at the behest of Akibkhan. He further submits that the applicant on realizing that Akibkhan had transferred money from the Al-hilal Business Concept Pvt.Ltd, Solapur to Barkat Goat Farm of which, Akibkhan was the sole proprietor and was not paying the

investor's amount, filed a complaint as against Akibkhan with the Vijapur Naka Police Station, Solapur, on 8th January, 2020. Learned Counsel relied on page 1200 in support of the said statement. He submits that the applicant has no antecedents and that from 2016, the applicant was working with the Electricity Board. He further submits that infact, at the instance of Akibkhan, not only the applicant and his family members invested with Al-hilal Business Concept Pvt.Ltd, Solapur, but several of his relatives have also invested in the said scheme, believing Akibkhan.

4. Learned APP opposes the application. Learned APP has filed an affidavit of Tukaram Dadaso Ghadage, API, presently attached to the Economic Offences Wing, Dist.Solapur City, to show the complicity of the applicant in the alleged crime. She submits that till date, 26 investors have come forward and the amount involved is 1,49,35,000/-. In para 10 of the said affidavit, it is stated that the applicant and the accused persons' property valued at Rs.1,03,84,168/- is secured during the investigation. She further states that there is a likelihood of more investors coming forward.

5. Perused the papers. According to the complainant – Sarfraj Amir Shaikh, the Directors of Al-hilal Business Concept Pvt.Ltd, Solapur

i.e. the applicant and Akibkhan Harunkhan Pathan have cheated him as well as 25 other investors, by inducing them to invest monies in the said company and by promising huge returns in a short period of time. The complainant has stated that he alongwith 25 investors have been cheated for an amount of Rs.1,49,35,000/-. Pursuant to the said complaint, the aforesaid C.R. has been registered as against the applicant and Akibkhan. According to the prosecution, during the course of investigation, it transpired that Al-hilal Business Concept Pvt.Ltd, Solapur, with the applicant, as its founder member alongwith Akibkhan have induced investors by promising them huge returns in a short period of time. According to the investors, the applicant alongwith Akibkhan had accepted monies from them; and after taking monies from the investors, they were given receipts which was signed by the applicant. It appears that in the house search of the applicant, the computer used in connection with the company work was seized and so also the copies of the certificates of some of the investors of the company and other documents. It appears and is a matter of record that the applicant had also invested Rs. 40,00,000/- in the name of his wife Jasmin, Rs. 6,00,000/- in the name of his mother Husian Bi and Rs.2,00,000/- in the name of his father Imam Husain and Rs.6,60,000/- in the name of his brother Shahnawaj and Taufik. According to the prosecution case, the applicant alongwith co-accused Akibkhan had

conspired and invested the monies of the investors in 'Barkat Goat Farm', of which Akibkhan, was the sole proprietor. During the course of investigation, Barkat Goat Farm was also searched and 20 goats were found which were purchased from the investors' investments. It appears that the seized goats were sold with the permission of the Court and the said amount has been deposited in the Court. According to the prosecution, the applicant alongwith co-accused – Akibkhan promised huge returns under various schemes floated by the company and after promising huge returns, induced the investors to invest the money.

6. The applicant, in his complaint dated 8th January, 2020 made to the Police of Vijapur Naka Police Station, Solapur has alleged that Akibkhan was running a proprietary concern in the name of 'Barkat Goat Farm' when he met him and that for sometime, he was working as an accountant with Akibkhan in 'Barkat Goat Farm'. He has stated that as he was employed in 'Barkat Goat Farm', he came to know Akibkhan. He has stated that Akibkhan had also induced him to invest Rs.12,00,000/- for two years, pursuant to which, he had invested Rs.12,00,000/- for which, he received returns of Rs.2,70,833/- and Rs.1,44,184/- during the period 2016 and 2017. He has further stated in his complaint that Akibkhan had told him that he was falling short of investment and that, he should find others

to invest in 'Barkat Goat Farm'. The applicant in his complaint to the Police has further stated that he had raised certain queries with Akibkhan, pursuant to which, Akibkhan disclosed to him that he was starting a company and that he should find investors to invest in the said company. He has stated that, Akibkhan started a company by the name 'Al-hilal Business Concept Pvt.Ltd', Solapur in which, Akibkhan made the applicant as one of the Directors alongwith him; much against his wish. He has stated that the investors started investing with the said company i.e. Al-hilal Business Concept Pvt.Ltd, Solapur. He has further stated that as he believed in Akibkhan, he and his wife further invested an amount of Rs.28,00,000/- with Al-hilal Business Concept Pvt.Ltd, Solapur. The applicant, in his complaint has further stated that Akibkhan would continuously ask him to get more investors, pursuant to which, Mainoddin Jamadar and others invested a sum of Rs.3,47,70,000/-. The applicant in his complaint has further stated that he alongwith the others, invested in Al-hilal Business Concept Pvt.Ltd, Solapur and that Akibkhan transferred the said monies in 'Barkat Goat Farm' and used the said monies in 'Barkat Goat Farm'. It is further stated that suddenly, Akibkhan stopped paying the interest, pursuant to which, he make several calls, however, Akibkhan switched off his mobile. Apprehending that Akibkhan may have absconded and would not return and as yet cheated him alongwith other investors, the

aforesaid complaint was made by the applicant with the Vijapur Naka Police Station, Solapur. Admittedly, no FIR was lodged by the Police, on the applicant's complaint. From the affidavit filed by the learned APP, it, thus, appears that the applicant alongwith his close family members had also invested in Al-hilal Business Concept Pvt.Ltd, Solapur, a huge amount of around Rs.54,00,000/-. There are certificates to that effect. Learned APP when questioned, on instructions, states that there is nothing to show any suspicious transaction having come into the applicant's account / or gone from the applicant's account. The amount involved is Rs. 1,49,35,000/- and it appears from the affidavit in reply filed by the learned APP, that property worth Rs.1,03,84,168/- has been secured.

7. Considering the aforesaid and the fact that the applicant is in custody since 8th September, 2020 and investigation is complete and chargesheet is filed, further detention of the applicant is not warranted. Accordingly, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 50,000/- with one or more local sureties in the like amount;

(ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;

(iii) The applicant shall inform his latest place of residence and mobile contact number, if any, soon after being released on bail and/or if there is any change of residence or mobile details, time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iv) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vi) The applicant shall deposit his passport, if any, with the Investigating Officer before his release;

(vii) The applicant shall not leave Solapur City without the permission of the Trial Court;

(viii) The applicant shall file an undertaking with regard to clauses (ii) to (vii) in the trial Court, within two weeks of his release;

8. The application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.