

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) NO.539 OF 2021

(Bhaskar s/o Joti Gaikwad Vs. The State of Maharashtra thr. PSO PS Ramnagar, Dist.
Chandrapur)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. Firdos Mirza, Advocate for Applicant.
Mr. M.K. Pathan, APP for Non-Applciant/State.

CORAM: ROHIT B. DEO, J.

DATE: 23rd JULY, 2021.

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. The applicant is seeking bail in connection with Crime 819/2016 registered with Police Station Ramnagar, Chandrapur under Section 420 read with Section 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (MPID Act).

3. The crime is registered on the basis of first information report dated 21.07.2016 lodged by Mr. Jamil Ahmed.

4. The gist of the report is that Mr. Jamil Ahmed

and his family members were induced to invest Rs.10 lakhs in Jagruti Agro Foods & Infra Projects LLP (Company). It is alleged that the inducement was on the promise to pay attractive interest and ultimately even the principle amount was not refunded.

5. The applicant is not the main accused in the sense that he is not the Director of the Company. According to the prosecution, the applicant is the brother of one of the two Directors/Partners of the Company and according to the articles of association in case of death of one Director, the applicant was to be inducted. This submission is seriously disputed by the learned counsel Mr. Firdos Mirza, who submits that the applicant is not even related to the Director of the Company and the prosecution is taking undue advantage of the similarity in the name of the Director and the brother of the applicant.

6. It would not be necessary to make any observation on the merits of the rival contentions.

7. The maximum punishment is seven years. Considering the fact that an early trial is a remote possibility, I do not see any purpose in continuing with the incarceration.

8. However, the learned APP Mr. Pathan points out that the applicant was absconding and could be arrested

only on 15.02.2021 although the Investigating Officer made serious effort to arrest the applicant earlier and the prosecution has record to show that close relatives were intimated that the presence of the applicant is necessary in the investigation.

9. In view of the apprehension expressed by the prosecution, stringent conditions shall have to be imposed.

10. The learned counsel for the applicant Mr. Firdos Mirza agrees that sureties of two well to do and respected citizens of residents of the Solapur District shall be furnished in order to allay the apprehension of the prosecution that the applicant shall not be available to face the trial.

11. The application is allowed subject to the following conditions.

- (i) The applicant shall execute the personal bond of Rs.1,00,000/- with two solvent sureties of like amount, to be furnished to the satisfaction of the trial court.
- (ii) As undertaken, the two sureties shall be well to do and respected residents of Solapur District.
- (iii) The applicant shall attend each and every date of hearing. A single default may entail cancellation of bail, unless the default is condoned by the trial court.

- (iv) The applicant shall, within forty-eight hours of the release, furnish his current address and phone numbers to the Investigating Officer and shall update the Investigating Officer if there is any change.
- (v) The applicant shall not make any attempt to influence the witnesses, directly or indirectly.

12. The application is disposed of accordingly.

JUDGE

NSN