

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

CRIMINAL APPLICATION (BA) NO.1259 OF 2020

(Yogesh s/o Marotrao Rehapade Vs. The State of Maharashtra thr. PSO PS Umrer,
Tah. Umrer, Dist. Nagpur)

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

Court's or Judge's orders.

Mr. Anil Mardikar, Senior Advocate with Mr. Kunal Nalamwar, Advocate for
Applicant.

Mr. N.S. Rao, APP for Non-Applciant/State.

CORAM: ROHIT B. DEO, J.

DATE: 7th SEPTEMBER, 2021.

Heard.

2. The applicant – Yogesh Rehapade, who is in custody since 26.11.2019 is seeking bail in connection with Crime 191/2019 registered with the Umrer Police Station for offences punishable under sections 420 and 406 of the Indian Penal Code (IPC) and section 3 of the Maharashtra Protection of Depositors Act, 1999.

3. The investigation is complete and the charge-sheet is filed.

4. The thrust of the submission canvassed by the learned Senior Advocate Mr. Anil Mardikar is that considering that the maximum punishment which a conviction may entail is seven years, further incarceration

would be in the nature of a pre-trial punishment, particularly since an early trial is a remote possibility.

5. In rebuttal, the learned APP Mr. Rao points out that the applicant is implicated in as many as four other crimes, one of which invokes the penal provisions of section 409 of IPC and the maximum punishment provided is life.

6. Adverting to the prosecution case, the accusation is that the applicant floated Siddhivinayak Land Developers in 2011 and Shree Ramsamarath Agro Purpose Society in 2015. Broadly, it is alleged that gullible persons were induced to invest in the many schemes floated by the said concerns and the promise was high returns. The investors did get the assured returns in the initial one year of the floating of the schemes and then were left high and dry. The prosecution alleges that in the present crime, the amount which is involved is Rs.5,42,41,763/- (Rupees Five Crores Forty Two Lakhs Forty One Thousand Seven Hundred Sixty Three only).

7. I have perused the material in the charge-sheet and while the learned APP Mr. Rao is justified in submitting that there is a strong *prima facie* case, bail cannot be rejected, particularly if the offence entails maximum punishment of seven years, only on the ground of existence of strong *prima facie* case. The applicant is in custody since 26.11.2019, considering the work pressure on the Special

Court, the girth of the charge-sheet and the number of witnesses cited, it would be utopian to expect an early trial. Unless there are compelling reasons to deny bail, ordinarily bail must follow as a rule, lest the incarceration is rendered a pre-trial punishment.

8. I have noted that there are four other offences which are registered at different police stations and in one of the crimes section 409 of IPC is invoked. The learned prosecutor Mr. Rao states that the four crimes which are registered involve similar *modus operandi* and are registered on the basis of the complaints of the investors of the particular area of operation of the concerns floated by the applicant. Notably, even according to the prosecution the applicant opened as many as nineteen branches across the length and breadth of Vidarbha. The applicant is not before me seeking bail in the other offences and as and when the applicant seeks bail, before the appropriate forum, his entitlement to bail in the other offences will be decided on its own merit and uninfluenced by any observation made in this order which is restricted to Crime 191/2019.

9. Considering the factual matrix on the touchstone of the enunciation of the Hon'ble Supreme Court in *P. Chidambaram v. Directorate of Enforcement* (2020) 13 SCC 791 and *Sanjay Chandra v. Central Bureau of Investigation* (2012) 1 SCC 40, I am inclined to grant bail.

10. The applicant – Yogesh Rehapade be released on furnishing PR bond of 16,000/- (Rupees Sixteen Thousand) with solvent surety of like amount.

11. The applicant shall report at the concerned police station on the 15th and 30th day of every month.

12. The applicant shall, within forty-eight hours of release, furnish to the I.O. his current address and phone numbers and shall update the I.O. of any change.

13. The applicant shall not make any attempt to influence the witnesses, directly or indirectly.

14. The applicant shall not leave the country without the permission of the trial Court.

JUDGE