

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1195 OF 2021

SUDHIR SUBHASH KAPRE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Aniket Nikam a/w. Mr.Ashish Satpute a/w. Mr.Vivek Arote i/b.

Mr.Amit Icham, Advocate for the Applicant.

Smt.Anamika Malhotra, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 10th DECEMBER 2021
PRONOUNCED ON : 5th JANUARY 2022.**

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.621 of 2019 registered with Police Station Islampur, Sangli, for offences punishable under Sections 406, 409, 420 read with 34 of the Indian Penal Code (IPC) and under Sections

3 and 4 of Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act.

2 The prosecution case in nutshell is that prime accused, namely, Subodh Mohite with the help of other accused persons, registered one Company in the name and style as “Rayat Agro Company” which was further renamed as “Maha Rayat Agro India Pvt. Ltd.” (hereinafter referred to as the said Company). Accused Vijay Shende was appointed as Chief Executive Officer (CEO) of the Company. The prosecution alleges that accused persons induced the investors to invest amounts in a scheme to be implemented largely in rural parts in respect of business of poultry of Kadaknath Birds and in return, the investors would be paid huge amounts. The scheme contemplated that the Company would provide chicks to the investors and the eggs and the birds would be purchased by them and the Company would also arrange for the feed for the said birds. Many investors invested huge amounts in the Company. Initially, the investors received the benefits but as the time passed there was failure to extend

the benefits. This resulted in lodging of the complaint by the investors and others.

3 Mr.Aniket Nikam, learned counsel for the applicant, submits that the applicant was not involved in any sort of representation or that he was instrumental in luring the investors to the scheme. The learned counsel invited my attention to the statement of various investors, namely, Sagar Vilas Sakat, Manoj Vilas Deshmukh, Sudhir Shankar Kadam and Vishal Satish Kumbhar. According to the learned counsel investigation is completed and charge-sheet has been filed. There are no criminal antecedents. Moreover, co-accused, namely, Rohit Puranik is released on bail by this Court (Coram : Bharati Dangre, J.) on 24th August 2021. Since the applicant is also similarly placed, he deserves to be given the benefit of parity.

4 Smt.Anamika Malhotra, learned APP, on the other hand, opposed the submissions by contending that more than Rs.3 crores, hard earned monies, of the investors are involved.

The applicant and other co-accused introduced the scheme to the investors and thereby lured them to invest in the said Company, only later on to cheat the investors. The learned APP also filed report of the Investigating Officer showing the role played by the applicant and other accused. There being no merit in the application, the same is liable to be rejected, argued learned APP.

5 Perused the investigation papers.

6 A bare perusal of the First Information Report (FIR) would show that Maha Rayat Agro India Pvt. Ltd. was formed by accused Sandeep Subhash Mohite and other accused. It is specifically alleged in the FIR that accused Sandeep Mohite and others induced the informant and others to invest their monies in the Company. Interestingly, the name of applicant is nowhere disclosed in the FIR as one of the introducers or that he was also instrumental in inducing the informant and others to invest in the said Company.

7 I have gone through the statement of Sagar Vilas Sakat, who, at the relevant time was working as an Accountant and Data Entry Operator in the said Company, states that in the month of June 2019, he had been to Directors of the said Company, namely, Sudhir Mohite, Sandeep Mohite and Vijay Shende to inform in respect of lesser bookings and increased expenses but they did not pay heed. From the statement of this witness it is quite clear that accused Sudhir Mohite, Sandeep Mohite and Vijay Shende were the men who were looking after the affairs of the said Company. He nowhere takes the name of the applicant. However, it seems that his supplementary statement came to be recorded later on wherein he stated the names of the partners of the said Company including the applicant and Rohit Mohan Puranik, who is on bail.

8 The next statement is that of Sudhir Shankar Kadam. According to this witness, in the first week of September 2017, a meeting of Rayat Agro India was held presided over by Directors,

namely, Sudhir Mohite, Sandeep Mohite and other staff members. Accused Sandeep Mohite gave information in respect of Kadaknath Poultry Farm. Again the name of applicant is nowhere revealed by this witness.

9 The next statement is that of Vishal Satish Kumbhar who states that accused Sudhir Kapre i.e. the applicant, Mrugesh Kadam, Rohit Puranik used to visit Islampur on account of meeting of Company and on festival of Sankrant and Gudhipadwa. They used to represent themselves as partners of the Company. Chicks used to be supplied by accused Rohit Puranik and Chick feeds by Mrugesh Kadam. No specific role is attributed as far as the present applicant is concerned.

10 What emerges from the above is that the applicant along with accused Rohit Puranik and others allegedly were partners of the said Company. Rohit Puranik has already been released on bail by this Court, as noted hereinabove. There is no prima facie evidence to show that the applicant lured investors as

a result of which the investors were prompted to invest the amounts in the scheme of the Company.

11 Investigation is over and charge-sheet has been filed. In such circumstances, custody of the applicant is unwarranted. Hence, I pass the following order :

ORDER

- (i) Applicant – Sudhir Subhash Kapre shall be released on bail in Crime No.621 of 2019 registered with Police Station Islampur, Sangli, on his executing P.R.Bond in the sum of Rs.50,000/- with one or two sureties in like amount.
- (ii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant should not tamper with prosecution evidence.

- (iii) The applicant shall mark his attendance to the concerned police station on first Monday of every month, till framing of the Charge.
- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.
- (vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)