

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 777 OF 2021

Pritam Ramesh Mane ..Applicant
Vs.
The State of Maharashtra ..Respondent

Mr. Satyavrat Joshi, for the Applicant.
Mr. A. R. Kapadnis, APP for the Respondent / State.

CORAM : C.V. BHADANG, J.
DATE : 16 MARCH 2022

P.C.

. By this Application, the Applicant (Accused No.1), is seeking release on bail in Crime No.394/2019 of Police Station Dattawadi, District Pune, under Section 406, 409 and 420 r/w. 34 of IPC.

2. The aforesaid crime is registered on the basis of the complaint dated 3 September 2019 lodged by Nilesh Shivaji Aabende. According to the prosecution, Sudhir Mohite (Accused No.2) is the Chairman and Sandeep Mohite (Accused No.3) and Hanumant Jagdale (Accused No.4) are the Directors of *Maharayat Agroindia Private Limited* and *Rayat Agro India Private Limited* of Islampur,

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Tehsil Walva, District Sangli. The Applicant is stated to be the Accountant working with the said firms. According to the prosecution, the Applicant and the co-accused had induced the agriculturists / investors to invest in the poultry business of rearing of *kadakhnath chicken* and accepted an amount of Rs.2,50,000/- from the informant Mr. Nilesh Shivaji Aabende. The total amount accepted by the Applicant and the co-accused from the various farmers is Rs.6,01,83,500/-. However, the Applicant and the co-accused failed to either provide the birds (chicken) or to purchase the chicken or the eggs at the agreed rate and thereby has committed misappropriation of the said amount and cheated the informant and others.

3. On the basis of the complaint lodged by Nilesh Aabende, the offence came to be registered which was investigated by the Economic Offences Wing (EOW), Pune and after completion of investigation, a chargesheet is filed on 30 November 2019. The Applicant was arrested on 3 September 2019 and is in custody since then.

4. The learned Sessions Judge has refused to release the Applicant on bail by order dated 27 February 2020 inter alia on the ground that although the Applicant was not working as a Director, he was the Accountant and managing the affairs of the Company at

Pune. The Sessions Judge has also found that this a financial fraud of a wide magnitude not entitling the Applicant to be released on bail.

5. I have heard the learned counsel for the parties. Perused record.

6. It is submitted by the learned counsel for the Applicant that the Applicant was merely working as a Accountant with *Maharayat Agroindia Private Limited* and he was not concerned with the management or the affairs of the Company. It is submitted that the Applicant is not a beneficiary of any of the transactions or the amount collected. It is submitted that the ingredients of Section 406 and 409 of IPC are not attracted against the Applicant nor there is any evidence that the Applicant has misappropriated any amount received from the farmers or was a party to the alleged fraud / cheating. It is submitted that the investigation is complete and the chargesheet is filed and looking to the nature of the prosecution evidence, the trial is not likely to conclude at an early date.

7. The learned APP has submitted that the Applicant although working as an Accountant with *Maharayat Agroindia Private Limited*, was a Director in a sister concern namely *Maharayat Fresh Foods Private Limited*, which was supplying the poultry feed. It is

submitted that the Applicant was a part of the transactions wherein the farmers / investors were induced to invest in the *Kadakhnath Poultry Farming Project* and cannot escape liability. It is submitted that certain amount is also shown to be transferred to the account of the Applicant and as such, it cannot be said that the Applicant is not a beneficiary of the transactions and the amount collected. It is submitted that the Applicant is a close relative being the cousin brother of the main Accused Sudhir Mohite and looking to his complicity in the offence and the extent of the fraud involving several farmers / investors, no case for grant of bail is made out. Learned APP has referred to the statements of some of the witnesses namely Anuja Puranik, Viresh Dalvi, Mukhtar Nadaf and Tukaram Ghate.

8. I have carefully considered the rival circumstances and the submissions made.

9. The prosecution case is that the Chairman and the Directors of *Maharayat Agroindia Private Limited* and *Rayat Agro India Private Limited* had induced the farmers / investors to invest into the *Kadakhnath Poultry Farming Project* through T.V. and You Tube advertisements and different plans were put up for sale. The Applicant and the co-accused had agreed to supply *kadakhnath* chicken and assured to provide the poultry food as well as the

expenses for their maintenance and transport etc. They had agreed to purchase the chicken at the rate of Rs.400/- to Rs.1200/- and eggs at the rate of Rs.20/- to Rs.60/- and accordingly agreements were entered into between the farmers / investors. Even according to the prosecution, the Applicant had supplied the chicken to some of the farmers and the purchase of the grown up chicken as well as eggs was also made from some of the farmers / investors. However, subsequently, there was default in the matter of assurance, so given, thereby cheating the various farmers / investors for an amount in excess of Rs.6 Crores. *Prima facie*, it can be seen that Section 409 may not be attracted as the Applicant is not shown to be a public servant. Admittedly, the Applicant was working as an Accountant with *Maharayat Agroindia Private Limited* and is not a Director who may be entrusted with the management of the affairs of the said Company. It can thus be seen that the Applicant was only an employee. Although, according to the prosecution, the Applicant is a Director in *Maharayat Fresh Foods Private Limited*, the only allegation is that the poultry food was being provided by said *Maharayat Fresh Foods Private Limited*. The learned Sessions Judge has noticed that an amount of Rs.7,00,700/- was deposited in the account of the Applicant for the period from 16 July 2019 to 28 August 2019, out of which, an amount of Rs.6,95,000/- was withdrawn. It can thus be seen that before the learned Sessions Judge it was claimed that the only amount which was deposited in

the account of the Applicant was Rs.7,00,700/-. The investigation in this case is complete and the chargesheet is filed on 30 November 2019. The Applicant was arrested on 3 September 2019 and is in custody for more than 2½ years. The chargesheet cites 116 witnesses and therefore, the trial is not likely to conclude within a short time. The offences are triable by a Magistrate. Considering the over all circumstances and particularly, having regard to the fact that the Applicant was only an Accountant with *Maharayat Agroindia Private Limited* and an amount of Rs.7 Lakhs and odd is said to be transferred in his account and further having regard to the fact that investigation is complete, I do not find any justification to detain the Applicant behind bar, pending trial.

10. In the result, the following order is passed.

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) The Applicant Pritam Ramesh Mane, be released on bail in Crime No.394/2019 of Police Station Dattawadi, District Pune, on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
- (iii) The Applicant shall undertake to remain present before the learned trial Court during the course of trial, unless exempted.

(iv) The Applicant shall furnish his permanent residential address alongwith proof, before the learned Magistrate.

(v) The Applicant shall not directly or indirectly make any attempt to contact or to influence the prosecution witnesses or to otherwise tamper with the prosecution evidence / witnesses, in any manner.

(vi) In the event of breach of any of the conditions, the bail is liable to be cancelled.

(vii) The Criminal Application is disposed of, in the aforesaid terms.

C.V. BHADANG, J.