

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.2933 OF 2021

Mr.Kamalkant Narayan Yadav ... Applicant
V/s.
The State of Maharashtra ... Respondent

Mr.Ganesh Gole i/by Mr.Aarif Ali M.Ali, Advocates for the Applicant.
Mr.S.V.Gavand, APP for the Respondent/State.
Mr.Devidas Dhole, MFC Police Station, Kalyan present.

**CORAM : SMT. BHARATI H.DANGRE, J.
DATE : SEPTEMBER 14, 2022.**

P.C.:

1. The applicant came to be arrested on 15th December, 2020 on a complaint being registered at the instance of one Kiran Dattaram Mestry, with Mahatma Phule Chowk police station for the offence punishable under sections 406, 420 r/w 34 of the Indian Penal Code.

The complainant alleged that he came across an advertisement of Anmol Sai Agro (Goat Farm) over his facebook. The said advertisement contained information about how to earn more profit in short time. He made inquiries and visited the office and was introduced to the Director of the company, Kamalakant Narayan Yadav, the present applicant.

Being impressed by the scheme under which several persons were reaping the benefit, he decided to invest his money and was assured that even in case of loss he will be compensated by selling the farm itself.

On his personal visit he noticed the presence of 200 goats in the farm. This prompted him to transfer Rs.6 lakhs in favour of M/s Anmol Sai Agro and he even received commission of Rs.35,000/-. However, one day everything vanished and not only the applicant but 23 other investors suffered loss as, the amount invested by them was not returned. The goats neither existed nor the money was refunded.

2. During the course of investigation, statement of several witnesses came to be recorded. The agreements entered with the various investors were also seized and the first party to all the agreements is the present applicant.

The counsel for the applicant relied upon the said agreement which contained a clause, that in case of natural calamity, the company won't be liable to pay and he would submit that the parties agreed to the terms contained therein. His defence is, on account of some unforeseen contingencies caused by heavy rain, the company was unable to fulfill the promise.

3. On completion of the investigation, the charge-sheet has been filed and on the very first date of hearing of the application, it was recorded that against the deposits made, some amount was repaid to the investors and those figures on record.

During the course of the hearing of the application, the learned APP was directed to place on record the exact figures reflecting the investments made by the investors and the repayment.

4. Today the learned APP has placed on record the chart which reflect the amount invested, amount returned and the unpaid amount from 24 investors as per the charge-sheet. He has also shared the said statement with the counsel for the applicant and on comparing the two, Investigating Officer has displayed the amount invested, amount returned and amount unpaid in a tabular form.

As on date it can be seen that the total amount invested in the scheme floated by the applicant is to the tune of Rs.10,48,56,010/- and according to the Investigating Officer an amount of Rs.41,45,819/- has been returned to the investors, the deficit amount which remain unpaid is Rs.64,47,683/- .

The investigation has revealed that out of the said amount, the co-accused persons have received an amount of Rs.23,39,991/-, and this amount has been refunded by the co-accused, Raju Gupta, L. Tiwari, Shilwan Kamble who have been released on bail as they have deposited the amount in the court. Considering the said figures, the learned APP state that amount which has been received by the applicant but not credited back to the investors is Rs.29,21,692/-.

5. Considering the fact that the investigation is now complete and the material against the applicant is complied in the charge-sheet and the applicant is incarcerated for almost two years, who even on conviction under section 420 of IPC, he shall be imposed with an imprisonment which may extend to 7 years and fine and the penalty prescribed for the offence under section 406 of IPC, which may extend to imprisonment of three years, I deem it appropriate to restore his liberty as till date even charge is not framed and the prosecution has 41 witnesses to be examined during the trial and its culmination appears to be a distinct achievement.

Recording that the applicant has refunded an amount of Rs.41,45,819/- and what is deficit is Rs.29,21,692/-, he is released on bail subject to the certain conditions. Hence, the following order:-

ORDER

- i. The Criminal Bail Application is allowed and disposed off.
- ii. The applicant is released on bail in connection with Crime No.I-464 of 2020 registered with Mahatma Phule Chowk police station for the offence punishable under sections 406, 420 r/w 34 on his furnishing PR Bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two solvent sureties in the like amount.
- iii. The applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the prosecution evidence.
- iv. The applicant shall mark his attendance on first Monday of every month in the concerned police station.
- v. He shall attend the trial on regular basis.

(SMT. BHARATI H. DANGRE,J.)