

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2940 OF 2021

SAGAR UTTAM GHOLAP

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

WITH

BAIL APPLICATION NO.2114 OF 2021

ADIL DASTAGEER SAYYAD

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Rajendra Rathod a/w. Mr.Sahail Ahmed a/w. Mr.Aamir Koradia, Advocate for the Applicant in B.A.No.2940 of 2021.

Mr.Swaraj Jadhav, Advocate for the Applicant in B.A.No.2114 of 2021.

Mr.H.J.Dedhia, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 20th DECEMBER 2021
PRONOUNCED ON : 20th JANUARY 2022**

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P.C. :

1 The present applications have been moved by the applicants under Section 439 of the Code of Criminal Procedure in Crime No.808 of 2020 registered with Police Station Barshi City, Solapur (Rural) for offences punishable under Section 406, 417, 420 read with 34 of the Indian Penal Code (IPC). and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act (MPID Act).

2 The prosecution case in short is that accused, namely, Radheshyam Suthar, Chief Managing Director (CMD) (A-2), Bansilal Sihaag, Managing Director (MD) (A-3), Jairam Ahilji Shinde, Area Manager (A-4), Sagar Uttam Gholap, Area Manager (A-5), agents Aadil Sayyed and Dnyanoba Shahu Jadhvar and present applicant all in collusion with each other gave false information to the investors and induced them to invest in Future Maker Life Care Private Limited, Hissar, Haryana, and despite assurance, failed to return the benefits. According to prosecution

huge amount of investors amounting to more than Rs.1.50 crores is involved in the alleged offence. Accordingly, First Information Report (FIR) came to be lodged.

3 Mr.Rajendra Rathod, learned counsel for the applicant in B.A.No.2940 of 2021, submits that the applicant did not, in any manner, represent or induce the investors and invited my attention to various statements of prosecution witnesses. According to the learned counsel the applicant was employee of the Company and during the course of investigation his property, namely, Flat No.1202, Sapphire Building, Crystal City, Laxmi Chowk, Pune worth Rs.40,00,000/- has already been attached. Similarly, his Hyundai Creta Car worth Rs.9,80,000/- has also been attached. Investigation is completed. There are no criminal antecedents. Moreover, the CMD of the Company has already been arrested by the prosecuting agency. In such circumstances, no useful purpose would be served by keeping the applicant behind the bars.

4 Mr.Swaraj Jadhav, learned counsel for the applicant in B.A.No.2114 of 2021, submits that the only allegation against the applicant is that he attended the seminar and gave lecture pertaining to Future Maker Life Care Private Limited, Hissar, Haryana. None of the witnesses have stated in their statements that the applicant ever met them or induced them, in any manner, to invest in Future Maker Life Care Private Limited, Hissar, Haryana. Investigation is also completed. Charge-sheet has been filed. There are no criminal antecedents. In such circumstances, the applicant be released on bail.

5 Mr.H.J.Dedhia, learned APP, on the other hand, does not dispute about the attachment of various properties of applicant in B.A.No.2940 of 2021. According to learned APP, the investigation is also completed, and therefore, the applicants be permitted to give undertaking that they would not create any third party interest in their respective properties and accordingly, appropriate order may be passed.

6 Perused the investigation papers. On going through the record it is seen that as the applicants intended to file affidavit, this Court on 10th December 2021 had directed the applicants to file affidavit accordingly after affirming it before the Jail Authority. Accordingly, both the applicants have filed the affidavits. Applicant in B.A.No.2490 of 2021 in his affidavit cum undertaking states that his flat, which is mortgaged with Axis Bank, and Hyundai Creta Car have already been attached by the Investigating Officer. He further undertakes that he would not create any third party right on the said flat or sell the same and will regularly pay the loan amount.

7 Similarly, applicant in B.A.No.2114 of 2021 has also filed affidavit and submits that his Maruti Suzuki S-Cross Smart Car worth Rs.5,00,000/- may be attached, if required by the Investigating Officer, and the amount if any received from the said attachment may be deposited with the trial Court and disbursed as per the directions of the learned trial Court.

8 Thus, the concern of the learned APP has been taken due care of.

9 Coming to the merits of the case, I have gone through the statements of prosecution witnesses, namely, Sainath Mukund Sakhare, Anil Bhagwan Chougule and Vithoba Namdeo Bansode. All these witnesses have unisonly in their respective statements stated that the applicants had organized seminars at various place mentioned in their respective statements and lured investors to invest in the said Company. A very vague statement is made by all these witnesses in respect of inducement without giving the nature of inducement. I have also gone through the statement of other witnesses who have mainly implicated accused Dnyanoba Shahu Jadhvar.

10 There is no dispute from the side of prosecution that the main accused i.e. CMD of the Company has already been arrested. Properties have also been seized including the properties of the present applicant. Investigation is over and

charge-sheet has been filed. No other criminal antecedents are forthcoming. The trial may take its own time to reach its logical conclusion.

11 Having regard to the material on record and as also circumstances of the case, custody of the applicants is unwarranted. Hence, I pass the following order :

ORDER

- (i) Applicant – Sagar Uttam Gholap (B.A.No.2940 of 2021) and Applicant – Adil Dastageer Sayyad (B.A.No.2114 of 2021) shall be released on bail in Crime No.808 of 2020 registered with Police Station Barshi City, Solapur (Rural), on their executing PR.Bond in the sum of Rs.50,000/- each and on furnishing one or two sureties in like amount, by each of them.
- (ii) The applicants shall not tamper with prosecution evidence.
- (iii) The applicants shall attend the concerned police station twice in a month i.e. on first and third Monday of every month, in between 11.00 a.m. to 2.00 p.m. till the framing of Charge.

- (iv) The applicants shall attend the Court proceedings regularly.
- (v) Bail before the trial Court.
- (vi) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vii) 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.
- (viii) The applications are allowed in the aforesaid terms and stand disposed off accordingly.

(V. G. BISHT, J.)