

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

CRIMINAL APPLICATION (BA) NO.1321 OF 2021

Sanjay s/o Anilkumar Choudhary

Vs.

State of Maharashtra through Police Station Officer, Police Station, Nandanwan,
Nagpur

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

Court's or Judge's orders

Mr. A. K. Bhangde, Advocate for applicant.
Mr. I. J. Damle, APP for non-applicant/State.

CORAM : AVINASH G. GHAROTE, J.
DATE : 01/04/2022

Heard Mr. Bhangde, learned counsel for the
applicant and Mr. Damle, APP for non-applicant/State.

2. The applicant has been arraigned in Crime No.550 of 2020 for the offence punishable under Sections 406, 409 and 420 read with 34 of the Indian Penal Code, Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (MPID Act) and Section 45 (S) of the Reserve Bank of India Act.

3. The FIR is dated 03.08.2020. The applicant has been arrested on 27.07.2021. The charge-sheet has been filed on 12.06.2021.

4. Mr. Bhangde, learned counsel for the applicant submits that the only allegation against the applicant is that, he was a Director of Dhanlaxmi Infra and Agro Farming India Limited company based at Jagdalpur of which the applicant was a Director till 2015 when he had resigned on 12.01.2015. He submits, that consequent to his resignation, he has no role to play in the affairs of the company and therefore, has been falsely implicated in the aforesaid offence. Considering the role of the applicant, as stated above, it is contended that, he is entitled for bail. It is also stated that the co-accused/Directors, have already been released on bail by this Court by an order dated 20.12.2021 in Criminal Application (BA) Nos.1152 of 2021 and 1199 and 2021 and the case of the applicant is not dissimilar to those, who have been released.

5. Mr. Damle, learned APP for non-applicant/State opposes the application and submits that the involvement of the applicant, in the offence cannot be ruled out. He places reliance upon the certificates at pages 1115 to 1119 of the record issued to the customers, which are signed by the applicant. It is therefore, submitted that the application be rejected.

6. The prosecution claims that under the pretext of investing in Mushroom and Aloe Vera farming, for which high returns were assured, investors were lured

by the company to invest substantial amount to the tune of Rs.60,00,000/- and more, however there was no intention to give the promised to return.

7. A perusal of the charge-sheet would indicate that the applicant has been arraigned only on the ground that he was Director of the company and responsible for the functioning of the company. It is, however, material to note that the applicant had already resigned as the Director of the said company on 12.01.2015. In order to show his complicity, the reliance is placed on the document on record page Nos.1115 to 1119 by the prosecution, which however is of no assistance to the case advanced by the prosecution as all the certificates are of the year 2012 and not after the date of resignation of the applicant. The applicant, is claimed to have benefited to the tune of Rs.5,94,000/- as per Annexure-R II (page 1114). It is, however, also material to note the applicant is resident of Delhi and there is no allegation, that he had been personally to Nagpur to collect money from the investors. That being the case, in my considered opinion, a *prima facie* case for bail is made out. Hence, the following order.

ORDER

(i) The applicant be released on bail in Crime No.550 of 2020 registered with Police Station Nandanvan, Nagpur for offences punishable under Sections 406, 409 and 420 read with Section 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of

Depositors (In Financial Establishment) Act, 1999 and Section 45 (S) of the Reserve Bank of India Act, on his executing PR. bond of Rs.50,000/- (Rupees Fifty thousand) with two solvent sureties of the like amount.

(ii) The applicant shall not, directly or indirectly make any attempt to influence the witnesses or otherwise tamper with the evidence.

(iii) The applicant shall not leave the country without the permission of the trial Court.

(iv) The applicant shall remain present each and every occasion before the learned Sessions Court during the course of trial and shall ensure that the trial is not protract on his count.

(v) Pending application(s), if any, stand disposed of

JUDGE

Sarkate