IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1373 OF 2023

Babaso Bhupal Dhangar
Age: 29 years, Occu: Business,
Resident of: Dhangar Galli, Nerli,
Taluka: Karvir, District: Kolhapur **... Applicant**

Versus

The State of Maharashtra
Through the Officer In-charge
Vazirabad Police Station,
District: Nanded **... Respondent**

...

Mr. A. A. Yadkikar and Mr. A. D. Kulkarni, Advocate for the Applicant
Mr. S. B. Narwade, APP for the Respondent/State

...

CORAM : S. G. CHAPALGAONKAR, J.

Reserved On : 07.09.2023
Pronounced On : 20.09.2023

FINAL ORDER :-

1. Heard the learned Advocate for the applicant and the learned APP for the State.

2. The applicant is seeking bail in connection with Crime No.18/2023 registered with Vazirabad Police Station, District Nanded for the offences punishable under Sections 120-B, 406, 420 of the Indian Penal Code [for short 'IPC'] and Sections 3, 4 and 5 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 [for short 'MPID Act'].

3. The investigation was set in motion on the basis of information given by one Anand Nagnathrao Renguntwar. It is alleged that the informant and his wife are the Teachers. The wife of informant had met with Dr. Baburao Hazare, Director of Capitus Ceker Traders and Developers LLP, who had floated three different schemes of investments with his company. In the month of March-2021, the informant had received the consideration amount after sell of his agriculture land. Therefore, he invested total 30 Lakhs in the investment plan of the aforesaid company. After 45 days, returns against the aforesaid investments began. Since he was getting desired returns, he invested further 20 Lakhs rupees in the company. As assured under the investment scheme, he received a Tata Harrier Car. The down payment of Rs.4,50,000/- was made by the company and monthly installment of Rs.18,500/- was also provisioned. It is further alleged that on 23/06/2021, the company had an agreement with him for remayzer plan. Since it was Covid-19 period, the draft agreement was sent to the informant on his address. The informant signed on the said document and posted back on the address of the company at Kolhapur. The agreement contains signature of Mr. Indrajeet Bharat Mahalunge on behalf of the company. Although names of designated partners i.e. Shivaji Ganpati Hazare and Babaso Bhupal Dhangar [present applicant] are mentioned, there were no signatures of either witnesses or other persons.

4. It is further alleged that the Director of the company i.e. Dr. Baburao Hazare had arranged a seminars at Nanded. The

informant along with his family friends and other 50 to 60 persons used to attend the seminar. During the said seminar, Dr. Baburao Hazare informed that one Lohitsingh Dharmasingh Subhedar is a CMD of company. Influenced by the assurances made during aforesaid seminars, many persons, who were having acquaintance with the informant have made investments in large scale. However, in the month of August - 2022, CMD of the company - Lohitsingh Subhedar called a zooming meeting of investors and declared that the company has incurred losses and also declared that the returns on the investments or capital sum cannot be returned. It is therefore alleged that the accused persons have lured the investors to make deposit Rs.1,14,53,700/- and defrauded them. It is alleged that the applicant is the Director of the said company. In pursuance of the registration of offence, the applicant has been arrested on 26/01/2023. After due investigation, the charge-sheet is filed. The prayer of the applicant for grant of bail has been rejected by the Sessions Court, Nanded vide order dated 11/05/2023. Hence, the present bail application.

5. Mr. Amit Yadkikar, learned Advocate appearing for the applicant would submit that the applicant has been falsely implicated in the aforesaid crime. In fact, the applicant himself is a victim of the fraud exercised by the accused – Baburao Hazare and CMD of company – Lohitsingh Subhedar, who are absconding. He would submit that the applicant himself invested huge amount in a similar manner as the informant has invested. He would point out *modus operandi*

of accused - Baburao Hazare and his CMD. The investors like the informant as well as the applicant were lured of exponential returns. The investors of the amount above 50 Lakhs are made partners or directors of the company. Some returns are also given to them subject to condition that they bring more investments. Learned Advocate appearing for the applicant would point out that even the informant has received the returns of more than 29 Lakhs against his investment of 50 Lakhs so also, he has received a vehicle. Learned Advocate appearing for the applicant would further submit that in entire FIR, the only role has been attributed against the accused – Dr. Baburao Hazare. No role is attributed against the applicant. He is made accused only because the applicant is shown as Director of the company. The investigation is over. Charge sheet is filed hence he seeks enlargement of applicant on bail.

6. Learned APP vehemently opposes the prayers. He would point out that applicant is the Director of company. During the course of investigation, the account statements of the applicant are collected, which shows the transactions between the applicant and company. He would also point out that the applicant has invested the amount in his personal name in the capital market. Even he has signed as a witness on the agreement to sale in respect of land purchased by accused – Dr. Baburao Hazare, which clearly depicts the relation between the applicant and the accused. He would further point out that till this date, other accused persons are absconding. The release of the applicant may hamper the

attempts of the investigation agency to collect the evidence so also find out other accused persons. Therefore, he urges to reject the application.

7. Apparently, the applicant has been arrested on 26/01/2023. The investigation in the matter is completed and charge-sheet is filed on or about 23/03/2023. The perusal of the FIR dated 21/01/2023 would show that in entire allegations are made against Dr. Baburao Hazare, who had invited the first informant and others to make the investments in the company and lastly, the allegations is made that accused – Lohitsingh Subhedar i.e. CMD of the company has declared that the company has incurred the losses and would not be in the position to provide the returns on investments so also the capital sum. In the last line of report, the applicant is alleged to be Director of the company therefore, he is made accused. It is evident that the applicant is not the person, who has lured the first informant or any other persons named in the FIR to invest the amount in the company. He is not directly or indirectly involved in inviting the investments or making any promise of returns to the investors. The entire attributions are against accused – Dr. Baburao Hazare.

8. The careful reading of the complaint would show that the informant has alleged to have invested total amount of Rs.50,00,000. Such investments are made through bank transactions in the name of company. Admittedly, the first informant has received the returns of Rs.29,00,000/- against his investment made in March-2021 till August-2022.

Further, he has signed an agreement with the company. The said agreement bears signature of accused – Dr. Baburao Hazare. Although name of the applicant is mentioned on the agreement as designated partner, no role is attributed against him nor he has signed on the same agreement.

9. It is true that the bank account statements of the applicant are made part of the charge-sheet, which shows the transactions between the applicant and the company. Further, there is signature of the applicant as a witness on an agreement regarding purchase of the land in the name of Dr. Baburao Hazare. Even assuming those transactions are to be true and correct, it is difficult to believe that the applicant has received the said amount in the capacity of Director of company. On the other hand, the investments made by the applicant are in his personal capacity. The possibility that the applicant has also invested the amount in the aforesaid company, cannot be ruled out. However, it would be the part of the further investigation and trial. *Prima facie*, on the basis of material available on record, it is difficult to draw any definite inference regarding the role played by the applicant in Capitus Ceker Traders and Developers LLP. The statement of the witnesses would show that in fact, many persons have made investment on persuasion by the informant. The first informant has also received the returns out of his investment through the bank accounts of Capitus Ceker Traders and Developers LLP as like applicant. Considering the nature of the transactions and fact that the applicant is behind the bars since 26/01/2023, particularly when, the investigation in the

matter is completed, further detention of the applicant may not be necessary. In that view of the matter, the case is made out for grant of bail subject to certain conditions. Hence, the following order:

ORDER

(i) Bail Application is allowed.

(ii) The applicant, namely, Babaso Bhupal Dhangar be released on bail in connection with Crime No.18/2023 registered with Vazirabad Police Station, District Nanded for the offences punishable under Sections 120-B, 406, 420 of IPC and Sections 3, 4 and 5 of MPID Act on furnishing P.B. and S.B. of Rs.1,00,000/- (Rupees One Lakh Only) on the following conditions:

a) The applicant shall not tamper with the prosecution evidence/witness in any manner.

b) He shall attend the concerned Police Station once on 5th day of every month.

c) He shall co-operate with further investigation, if any.

d) He shall attend each and every effective date before the Trial Court.

e) He shall furnish details of his residential address, contact number along with Aadhar Card so also contact numbers of two close relatives along with their Aadhar Cards with the Sessions Court.

f) He shall not leave state of Maharashtra without intimating concern court

(iii) Bail Application is disposed of accordingly.

[S. G. CHAPALGAONKAR]
JUDGE

Sameer