

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

ANTICIPATORY BAIL APPLICATION NO. 2473 OF 2024

Mithilesh Ashok Golap @ Gholap	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 2474 OF 2024

Ashok Dattatray Kulkarni	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Arun Rajput a/w Rahul Tiwari and Viral Mukte for Applicant.
Mr. Mayur S. Sonavane, APP for Respondent-State in ABA/2473/2024.

Mr. Prasanna P. Malshe, APP for Respondent-State in ABA/2474/2024.

Mr. Amol Patankar a/w Ashish Patankar and Mr. Neil Chandiwalla for the Informant.

Mr. Pandurang M. Waghmare, API, Vishrambaug Police Station, Pune.

CORAM: MANISH PITALE, J.
DATE : 20th SEPTEMBER 2024

P.C. :

1. Heard learned counsel for the applicant, learned APP for the respondent-State and the learned counsel having instructions to appear for the first informant.

2. The applicants are apprehending arrest in connection with FIR No. 0192 of 2024 dated 30th July 2024 registered at

Vishrambaug Police Station, Dist. Pune, for offences under Sections 406 and 420 read with 34 of the Indian Penal Code, 1860 (IPC) and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (MPID Act).

3. The informant in the present case is a senior citizen aged about 78 years and she raised grievance before the Police that the accused persons, including the applicants before this Court, are responsible for she being induced and lured for investing huge amounts of Rs.11,80,000/- with the Cooperative Credit Society, of which the accused persons are office bearers or responsible members. They had promised higher return on the investment as compared to bank interest and due to the allurements she deposited the amounts, but subsequently neither the deposited amount nor the interest thereon was ever given to her.

4. The learned counsel for the applicants submits that the applicant-Mithilesh Ashok Golap in Anticipatory Bail Application No. 2473 of 2024 is the former chariman of the society and that he was chairman only for a period between 9th December 2023 and 16th February 2024. It is submitted that the applicant-Ashok Dattatray Kulkarni in Anticipatory Bail Application No. 2474 of 2024 is a senior citizen, who was the Secretary of the said society. It is submitted that the said applicant resigned from the post of secretary of the society on 18th April 2024 i.e. before the FIR was registered.

5. It is contended that the applicants cannot be held responsible for the grievance of the informant and other such persons, who claim to have suffered losses. A reference is made to an earlier FIR bearing No. 0013 of 2024 registered on 25th January 2024, wherein co-accused persons Uday Joshi, Shubhada Joshi and Mayuresh Joshi were arraigned as accused along with the applicant-Ashok Dattatray Kulkarni and others. It was submitted that the aforesaid FIR was registered in the context of a loan disbursed to a gas agency, in which the co-accused Mayuresh Joshi is a partner. The said proceeding revealed that Uday Joshi i.e. the current chairman of the society, had misused his position and that he along with his wife and son had caused serious financial loss to the society by taking a huge amount of loan Rs.1,24,00,000/- and failing to return the said amount.

6. It is claimed that while the applicant-Mithilesh Ashok Golap has no role to play in the present case or in the aforesaid earlier FIR. The applicant-Ashok Dattatray Kulkarni, then secretary of the society, had taken necessary steps for recovery from Uday Joshi and his wife and their son, due to which, the present FIR has been registered, wherein the applicants have been arraigned as accused persons.

7. It is submitted that the applicants are ready to cooperate with the investigation and therefore, this Court may consider granting relief.

8. On the other hand, the learned APPs appearing in the present applications referred to the investigation papers and brought to the notice of this Court statements of witnesses recorded during the course of investigation. It is submitted that the aforesaid statements clearly bring out the role of both the applicants, not only as regards the grievance of the informant but also that of other witnesses, who are similarly situated and who have also suffered heavy financial loss due to the inducement given by the applicants and the accused persons for making investments. None of such aggrieved persons have been given back their deposited amounts or the interest thereon.

9. The learned counsel having instructions to appear on behalf of the first informant, submits that the applicants are equally responsible for the financial scam in the society. They cannot feign ignorance and they cannot be permitted to push the blame on co-accused persons i.e. Uday Joshi, Shubhada Joshi and Mayuresh Joshi. This is a case where all the accused persons have connived to deprive innocent depositors like the informant herein of their hard-earned money.

10. This Court has considered the rival submissions upon perusing the material on record. The grievance of the informant is made out in the statement, leading to registration of the FIR. She has specifically alleged that she deposited huge amount of Rs.11,50,000/- on the inducements and allurements given by the accused persons about handsome returns being earned. Neither

the deposited amount nor the promised higher return was given to her and when she pursued the matter with the accused persons, including the applicants, they avoided her.

11. The statements of witnesses recorded during the course of investigation, show that similarly situated senior citizens were allured by the accused persons to make heavy deposits with the society on the expectation of higher returns. The witnesses have specifically named applicant-Mithilesh Ashok Golap also as a person who gave such inducements and allurements. To that extent, the role of the aforesaid applicant is *prima facie* made out by the material placed on record.

12. As regards applicant-Ashok Dattatray Kulkarni, it is an admitted position that he was the secretary of the society till 18th April 2024, when he resigned. The allegations are pertaining to the said period, when he was the secretary of the society. The said applicant cannot claim that he was ignorant of the activities of co-accused Uday Joshi, Shubhada Joshi and Mayuresh Joshi. He cannot wash his hands off from the fact that the society ended up giving huge loan amount to the gas agency, of which the co-accused Mayuresh Joshi is a partner. Although, a specific contention was raised that the said applicant as secretary of the society, had taken remedial measures by insisting upon recovering from the said co-accused persons, there is nothing on record to support such contention.

13. As regards the earlier FIR registered on 25th January 2024, this Court is of the opinion that merely because the applicant-Ashok Dattatray Kulkarni has been granted interim protection and his anticipatory bail application concerning the said FIR is pending, cannot come to his aid in the present proceedings. Insofar as the present FIR is concerned the allegations are specific. The investigation papers reveal that there is indeed material to raise a *prima facie* case against the applicants as regards their involvement along with the co-accused persons in causing significant financial loss to innocent depositors like the informant herein. It is to be noted that most of such investors are senior citizens in the evening of their life and their hard-earned money has been *prima facie* swindled by the accused persons and no indulgence can be shown in such circumstances.

14. The applications are dismissed.

MANISH PITALE, J.