

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

CRIMINAL WRIT PETITION NO.3502 OF 2017

Riaz Azgar Patel

.... Petitioner

versus

The State of Maharashtra & Anr.

... Respondents

.....

- Mr.Niteen V. Pradhan i/b. Mr.H.N. Mirashi, Advocate for the Petitioner.
- Mrs.S.V. Sonawane, APP for the State/Respondent.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.
DATE : 03rd APRIL, 2018.**

P.C. :

1. The writ jurisdiction of this Court is invoked for quashing of the FIR being CR No.95/16 registered with the Gamdevi Police Station, Mumbai, for the offences punishable u/s 420 r/w 34 of the Indian Penal Code. The provisions of section 3 of the Maharashtra Protection of Interest of Depositors Act (for short MPID Act) has also been invoked against the Petitioner.

2. We have, with the assistance of the learned Counsel for the parties, gone through the FIR, which has been lodged by the Respondent No.2 herein. The FIR succinctly depicts the manner in which the Respondent No.2 was allegedly induced to invest in the scheme, propounded by an entity, with which, the Petitioner herein is allegedly concerned. On the perusal of the said FIR, prima facie, the complicity of the Petitioner in the offences under the IPC, as also the offence under MPID Act is made out. We refrain ourselves from making any further observations lest it affects the investigation or the Petitioner at the trial.

3. At this stage it is required to be noted that the Petitioner had moved an Application for anticipatory bail before the designated Court under the MPID Act. The Special Judge by order dated 08/05/2017 allowed the application filed by the Petitioner. However, in the context of the relief sought in the above Petition it would be apposite to refer to the conditions, which were enforced upon the Petitioner at the time of granting the pre-arrest bail. The said conditions are reproduced hereinunder for the sake of ready reference.

- “(1) Applicant shall mark his presence with the investigating agency from 5th June on alternate day for 15 days and thereafter on every Monday between 10 am to 1 pm till filing final report and also as and when called by the I.O.
- (2) Applicant is also ordered to mark his presence with the I.O. as and when called by the I.O.
- (3) Applicant shall cooperate in the investigation and provide the details of his movable and immovable properties to the I.O. in writing.
- (4) Applicant shall surrender his passport with the investigating agency.
- (5) Applicant shall not leave India without the permission of this court.
- (6) Applicant shall not in any manner tamper with the prosecution.
- (7) Applicant shall not disposed of any of his immovable properties in India and abroad without the permission of this designated court.”

4. Hence in terms of condition No.1, the Petitioner who was the Applicant was required to mark his presence with the Investigating Agency from 5th June on every alternate day for 15 days and thereafter on every Monday between 10 am to 1 pm till filing of the final report and also as and when called by the

Investigating Officer. In terms of condition (3) the Petitioner was required to cooperate in the investigation and provide the details of the movable and immovable properties to the Investigating Officer. In terms of condition (4) the Petitioner was required to surrender his passport to the Investigating Agency and in terms of condition (5) the Petitioner was required not to leave India without permission of the Court.

5. It is an undisputed position that the Petitioner is presently residing in Bangkok on the ground that he has business interest there. Hence insofar as the condition which we have adverted to hereinabove, the said conditions have not been complied with and in fact can be said to have been breached or violated by the Petitioner.

6. The learned Counsel Mr.Niteen Pradhan appearing for the Petitioner would seek to draw this Court's attention to the fact that in terms of the directions, which were issued by the learned Special Judge, the Petitioner has deposited a sum of Rs.34 lakhs purportedly to take care of the interest of the

depositors, whose names appear in the order granting pre-arrest bail. It was also the submission of the learned Counsel that the Petitioner has nothing to do with one M/s Matrixx Derivatives Trading Services Private Limited, which the learned Counsel sought to demonstrate from form 20B, which is filed under section 159 of the Companies Act, 1956.

7. We are unable to appreciate the said contentions urged on behalf of the Petitioner firstly having regard to the allegations which find place in the FIR. The role of the said M/s Matrixx Derivatives Trading Services Private Limited can be uncovered only during the course of investigation, which as indicated above the Petitioner has not participated in, and has kept himself away by staying in Bangkok. Secondly, the Petitioner's conduct which we have briefly adverted to hereinabove disentitles him to any relief in our writ jurisdiction.

8. In that view of the matter, no case for interdiction is made out. The Writ Petition is accordingly dismissed.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)