IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1211 OF 2019

Hemant Vishwas Surryavanshi .... Applicant

versus

The State of Maharashtra .... Respondent

…....

- Mr. Satyavrat Joshi a/w. Sunil S. Kamble, Advocate for Applicant.
- Mr. Ajay Patil, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 21st AUGUST, 2019

P.C. :

1. The applicant is seeking his release on bail in connection with C.R. No.28/2018 registered at Dattawadi Police Station, Pune City, under sections 406, 420 r/w. 34 of IPC. Subsequently, sections 3 and 4 of Maharashtra Protection of Interests of Depositors (in Financial Establishments) Act, 1999 (MPID Act) are added alongwith section 66(D) of the Information Technology Act, 2000.

2. The FIR in this case is lodged by one Nisha Raisoni. She has stated that she came in contact with one Akash Sancheti. He informed her that he was owning a company by name 'Cloud Miners' and he was into the business of trading and mining of Bitcoins. He represented to her that his company was an Associate Company of 'Gain Bitcoin' company which was run by one Amit Bharadwaj. He further represented that the informant could purchase Bitcoins through his company. She could use those Bitcoins for mining and thereby she could get more Bitcoins. He represented that for every Bitcoin, after 18 months, she could get 1.8 Bitcoins. The informant was convinced that if she invested in this business, she would earn good profit. Accordingly, she invested Rs.1 Lakh on 12/8/2017 by transferring that amount in the account of Hemlata Sancheti, the mother of Akash Sancheti. Similarly, she invested more amount from time to time. It is her case that Akash Sancheti alongwith his business partner Smt. Kajal Shingvi also made similar representation. In all, she had invested Rs.13 Lakhs in that scheme of purchasing Bitcoins. Every time when the money was invested, Akash Sancheti used to give her

username and password. When the informant opened her account using her username and password, she found that Akash Sancheti had invested only $1/5^{th}$ of the amount given by her. When she demanded back her Bitcoins, he refused to return the Bitcoins, instead he offered to give other crypto currency by name MCAP. He did not inform her about the value of that currency. The first informant was convinced that she was cheated and therefore, she lodged her FIR.

3. The applicant was arrested on 26/4/2018 in this connection and since then, he is in custody. The chargesheet was filed in this case on 13/3/2018. Thereafter, the supplementary chargesheet was filed on 11/6/2018. The applicant's name features in the supplementary chargesheet as accused No.9. The story in the chargesheet is that the main accused Amit Bharadwaj, Ajay Bharadwaj and Vivek Bharadwaj had incorporated a company at Singapore by name Variable Tech PTE. They represented that the website of the company was “gainbitcoin.com”. These accused induced the investors to purchase Bitcoins. They had offered a

block chain ID for that purpose. They had represented that on each Bitcoin the investor would get 10% Bitcoins per month and after 18 months they would get returns. They had prepared software to that effect. It is the prosecution case that they had formed this company and software with dishonest intention. The prosecution case, further, is that; to spread the awareness of their scheme, they conducted various seminars and used celebrities to promote their scheme. It is alleged that, apart from these three accused, some other accused also induced various investors. Subsequently, the accused developed another crypto currency by name MCAP and instead of giving the promised Bitcoins, they forced the investors to take other crypto currency i.e. MCAP. By this modus operandi, various investors were cheated and they lost their money.

4. The allegations against the present applicant are that he was based in Pune. He had taken part in the conspiracy. The applicant had met the main accused Amit Bharadwaj at Dubai. He had conducted various seminars and though he was aware that it

was a fraudulent scheme, he had induced many investors to invest their money in the scheme causing losses to these investors.

5. I have heard Mr. Satyavrat Joshi, Ld. Counsel for the Applicant and Mr. Ajay Patil, Ld. APP for the State of Maharashtra.

6. Mr. Joshi submitted that the allegations against the present applicant are vague and in the entire chargesheet as well as in the entire supplementary chargesheet there is no material against the present applicant showing his involvement either in the conspiracy or in the inducement made to the investors to invest money.

7. Shri. Patil, Ld. APP has tendered an affidavit which is taken on record. Though the affidavit mentions Bail Application No.731/2019 instead of Bail Application No.1211/2019, Ld. APP makes a statement that it is a typographical error and this affidavit is made in respect of present Bail Application No.1211/2019. A copy of that affidavit is taken on record. In the said affidavit, the investigating agency has taken the stand that the applicant was

responsible for getting investment to the tune of Rs.15,70,000/- and that was the liability fixed on him.

8. Shri. Joshi as well as Shri. Patil both invited my attention to the statements of two witnesses Safa Ayyas and Rohit Suryavanshi recorded during the investigation. Both Ld. Counsel referred to this statements to advance their argument for their parties.

9. I have considered these submission and in particular the statements of these two witnesses. So far as statement of Safa Ayyas is concerned, she has stated that she had invested Rs.10,20,000/- in the scheme. However, she has stated that she came to know about the scheme through her friend Rakesh Sachdev. She had attended seminar through another friend Amit Bharadwaj. At the seminar she got acquainted with Bhagat Singh Pawar. At his instance, said witness had invested in the scheme. In the concluding paragraph, in her statement she has taken the name of the present applicant and has described him as one of the

leaders in Gain Bitcoin Company. This statement is hardly incriminating against the present applicant. This witness has not acted on any representation made by the present applicant. The statement does not show that this witness had ever met the present applicant. Therefore, there is nothing in her statement which can be held against the present applicant.

10. Other important statement is of one Rohit Suryavanshi. He has stated that he himself had appeared before Cyber Crime Cell after coming to know of lodging of the FIR in this case. He has stated in his statement that he came to know about this scheme through his friends. In June 2016 he met the present applicant. At that time, the present applicant informed him that the Gain Bitcoin Company was run by Amit Bharadwaj, Ajay Bharadwaj and Vivek Bharadwaj and their Company was functioning in Dubai and Singapore. He further informed that if investment was made in that company, for every Bitcoin, returns of 10% Bitcoin per month was assured and the returns were made after 18 months. The applicant told him the details about data

mining which was the process which was little difficult to understand. After this witness understood the entire scheme, he believed that the investment would be beneficial and thereafter, he invested in the company. The procedure was informed by the present applicant. Thereafter, this witness had invested Rs.15,70,000/- for purchasing Bitcoin. His case is that initially returns were made on his investment which he again invested. But on the second occasion, his returns were not forthcoming. He inquired with the applicant but the applicant told him that software of the company was being updated and some time was needed for such returns. Thereafter, this witness came to know that the Gain Bitcoin Company was not planning to return the Bitcoin but instead were offering MCAP crypto currency. He again inquired with the present applicant. Thereafter, since his returns were not being given to him, this witness had approached the Cyber Cell as mentioned above. Perusal of this statement shows that this witness had come to know about the scheme through his friends and he himself had approached the applicant. The applicant had undoubtedly told him about the procedure and details about the mining which was part of that scheme. However, the statement nowhere suggests that the present applicant induced this witness to invest in the scheme. Even subsequently, when the returns were not forthcoming; like any other investor, this witness got worried and even on that occasion the applicant had informed him about the status of the scheme.

11. Besides these two statements referred hereinabove, there is absolutely no material against the present applicant. The statement of Rohit Suryavanshi does indicate that the applicant was aware of the entire scheme, but that statement does not point out that the applicant was part of the entire conspiracy or that he had induced that witness to invest in this scheme. Besides these two statements, there is hardly any material against the present applicant.

12. Ld. Counsel Shri. Joshi submitted that the main accused Amit Bharadwaj and Vivek Bharadwaj were already on bail. This Court had granted bail to Nikunj Jain and Sahil Baghla.

He therefore, submitted that the role of the present applicant is much lesser and in fact, there is hardly any incriminating material against the present applicant. The investigation is over and the chargesheet is filed. Considering all these submission, in my view, the applicant has made out a case for his release on bail. No further purpose will be served by detaining the applicant during the entire course of trial. Hence, the following order.

<u>ORDER</u>

(i) The Applicant is directed to be released on bail in connection with C.R. No.28/2018 registered at Dattawadi Police Station, Pune City, on his executing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in like amount.

(ii) The application accordingly disposed of.

(SARANG V. KOTWAL, J.)