IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1153 OF 2018

Ayush Varshney ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Rishi Bhuta a/w Ujjwal Gandhi a/w Gunjan Thakkar i/b
Yadav P. R. Advocate for the Applicant.
Mr. Ajay Patil, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 12th February, 2020

PC :

1. This is an application for anticipatory bail in C.R. No. 28 of 2018 registered with Dattawadi Police Station, Dist. Pune for offences punishable under Sections 406, 409, 420, 120(B) of Indian Penal Code and Section 66(D) of Information Technology Act and Section 3 & 4 of Maharashtra Protection of Investors and Depositors Act (for short 'MPID' Act.).

2. The brief facts of the prosecution case are as follows :

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 12th August, 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 1/5th 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. Learned counsel for the applicant submitted that the applicant was not partner of Amit Bharadwaj. The applicant has not created website of Gain Bitcoin. He is not named in the FIR. He is not beneficiary of the invested amount. Sections 406, 409 & 420 are not attracted in this case. The main accused were arrested. Charge-sheet is filed against them. They were granted bail. Other accused with similar allegations namely Sahil Baghla was granted bail by this Court on an undertaking that he would give no objection for releasing amount of Rs.24,17,524/- freezed by the investigating agency. It is further submitted that the account of the applicant and his family has been seized which contained huge amount. It is submitted that the applicant was technical officer. The amount which was received by the applicant and his associates were towards fees for providing facility of software. The said amount has no connection with the proceeds of the crime. The applicant would give no objection for releasing an amount of Rs. 35 Lakhs.

4. Learned APP submitted that the offence is of serious nature. The applicant had played vital role. The applicant and the co-accused had received huge amount towards professional fees. Custodial interrogation of the applicant is necessary to find out role of the applicant in the preparation of the crypto currency. It is submitted that the co-accused were granted bail after a period of about one and

half year being in custody. It is submitted that the applicant is director of M/s. Darwin Labs Pvt. Ltd. This company was providing technical support to gain bitcoin website. The accused had developed the Coin Bank, Wallet and GB 21 website and M-cap Crypto Currency which was used by main accused Amit Bharadwaj who had cheated the investors. He relies upon decision of the Supreme Court in the Case of ***State Rep. by C.B.I. V/s Anil Sharma (1997) 7 SCC 187.***

5. I have perused the FIR. The affidavit filed by the investigating officer and the documents annexed to this application. The complainant has alleged that the accused Amit Bharadwaj and Vivek Bharadwaj had formed the company namely Variable Tech. Pvt. Ltd at Singapoor. They had represented website by name Gainbitcoin.com and through that website the investors were registered. The block chain was developed by giving block chain ID's. Investors were represented that they would get 10% Bitcoin on every Bitcoin over a period of 18 months. However, in spite of giving investors with promise to return of Bitcoin, accused offered to the other crypto currency by name M-cap and the investors were almost forced to take that Crypto currency. The investors were told that in lieu of one Bitcoin they would get 465 M-cap Crypto Currency. However, the price of the said currency was negligible. Several investors were duped for the amount which they had invested. The

applicant was director of M/s. Darwin Labs Pvt. Ltd. The said company had provided technical support to Gain Bitcoin website. They also developed Coin bank, Wallet GB21 website and M-CAP Crypto Currency. The contention of the applicant however is that the applicant and others had provided the technical assistance to the company of Amit Bharadwaj. I have also perused the investigation papers submitted by the learned APP. The co-accused was arrested. He was in custody for long time and then granted bail. The applicant was granted interim protection in this application and therefore he was not arrested. Considering the submissions advanced by the learned APP it is apparent that the custodial interrogation of the applicant is necessary for through the investigation. Hence, no case for grant of anticipatory bail is made out. Anticipatory Bail Application stands rejected and disposed of accordingly.

6. At this stage learned counsel for the applicant submitted that interim protection may be continued for a period of 4 weeks to enable the applicant to approach higher Court. It is also submitted that the interim protection is running in favour of the applicant since August, 2018. Learned APP however objects for extension of interim relief on the ground that his interim protection is continuing since long and applicant’s custodial interrogation is necessary. Considering the fact that the applicant was on interim protection and he intends

to approach the Hon'ble Supreme Court, interim relief is continued for a period of four weeks.

(PRAKASH D. NAIK, J.)