IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2638 OF 2019

Sandeep Govind Patil .. Applicant
Vs.
State of Maharashtra .. Respondent

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Mr.Niranjan Mundargi i/b. Mr.Omneel Jadhav, Advocate for the Applicant.

Mr.A.R. Kapadnis, APP for Respondent – State.

PI Prashant Jaysingh Savant, EOW Thane City, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : DECEMBER 14, 2020.

P.C.:

This is application for bail in connection with C.R.No.I–83 of 2019, registered with Kapurbawadi Police Station, Thane, for the offences punishable under Sections 420, 406 and 409 read with 120-B of Indian Penal Code ("IPC", for short) and Section 3 of Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 ("MPID Act", for short) Act read with Section 66(D) of Income Tax Act ("IT Act", for short).

2 The case of the prosecution is that the first informant was introduced to accused Prakash More by one Gajanan

Mayekar. Mr.More was running a company, namely, "Crypto Trade WS Limited", which deals in Bitcoins. The office of the company was situated at Lake City Mall, Kapurbawadi, Thane. The said company had floated lucrative schemes for investments and it was represented that huge profits were given to investors. Co-accused Prakash More informed the informant that his investment of Rs.7,50,000/- in the aforesaid company would earn Rs.21 lakhs at the rate of one percent per day within 200 days. It was also represented that in the event the investors get other members/investors, they would earn royalty bonus at the rate of three percent against the amount invested by the members/investors per week of 200 days. The informant believed the representation and invested the amount. Prakash More also introduced one more company, namely, "Tips Zone Advisory Private Limited". Complainant invested money. He did not earn returns, as promised by the accused. It is alleged that the applicant was director in Tips Zone Advisory Pvt. Ltd. During investigation, statements of investors were recorded and it was revealed that about 23 persons were cheated causing loss of Rs.2,81,43,500/-. On completing investigation, charge–sheet was filed.

3 The applicant preferred an application for bail before the Sessions Court at Thane, which was rejected by order dated 7th August, 2019.

4 Learned advocate for the applicant submits that the applicant is in custody from 1st April, 2019, further custody of the applicant is not necessary. Applicant was employee of Prakash More. He has not played any role to induce any investor to invest money. The investor had deposited an amount of Rs.75,000/-, in the account of the applicant. No other amount has been credited into his personal account. Applicant was director of Tipszone company for a period of about 1 and ½ month from 7th September, 2018 to 25th October,2018. Applicant is willing to deposit amount of Rs.75,000/-, in Court, without prejudice to his defence.

5 Learned APP submitted that false promises were made to the investors, inducing them to invest the amount, which resulted into loss of huge amount. Applicant was director of Tips Zone. He is involved in the crime. One more case is registered against the applicant vide C.R.No.1029 of 2018, at Sirsa Haryana for the offences under Sections 406 and 420 of IPC. Statement of Jaspal Singh dated 3rd April, 2019 show that he was induced to

part with the amount and he has named the applicant as one of the person involved in the crime. The applicant was joint account holder in the Tips Zone company. The contract of software was given to the applicant. The applicant has continued to operate account and work for company after his retirement. Further investigation is in progress.

6 On perusal of the FIR and the other documents, it is apparent that the FIR was lodged on 29th March, 2019. Undisputedly, the applicant was the director of Tips Zone for a period of about 1 and ½ months. The amount of Rs.75,000/-, has been credited into the account of the applicant. There is nothing to show that any other amount was credited into the account of the applicant. Statement of Jaspal Singh was recorded on 3rd April, 2019. However, it does not refer to the fact that any amount has been handed over to the applicant. It appears that one more case is registered at Haryana. However, learned counsel for the applicant submitted that the applicant was never sought to be arrested in this case, which is apparently registered in 2018. Apparently, there are no statements of investors attributing specific overt-act of making false representation by the applicant. Assuming that one more case is registered against

the applicant in respect to similar transaction, apparently, the applicant was involved as a director of Tips Zone. As stated above, he was director for a limited period. Learned Sessions Judge, while rejecting the application has observed that the applicant was Director of Tips Zone company. The amount of Rs.75,000/-, parted by the complainant in the account of the applicant. The Sessions Court, however, rejected the application on the ground that it does not mean that the applicant is not responsible for the transaction entered into with the company by other investors. The applicant is in custody for about 1 and ½ year. Prosecution could not point out any evidence to show whether applicant had made transactions into account of Tips Zone after his resignation. Nothing could be pointed out to show that he had participated as director of the company after his retirement.

7 The case of the prosecution in the charge–sheet is that the applicant was director of Tips Zone Advisory Private Limited from 7th September, 2018 to 25th October, 2018. He was signatory in the bank account of the company and the amount of Rs.75,000/-, was transferred in the account of the applicant. Charge–sheet also mentions that the applicant was employed with

the co-accused Prakash More. Learned APP contended that applicant continued to be the joint signatory in the bank account of the company. It is pertinent to note that it could not be pointed out that the applicant had participated in the activities of the company in any manner after resigning. It is not alleged that any other amount has been credited into the account of the applicant. There is nothing to show that the applicant had withdrawn any amount from the account of the company or had executed any transactions being authorized signatory of the company. It is not clear as to when the trial would come to an end.

8 Considering the aforesaid circumstances, case for grant of bail is made out.

9 Hence, I pass the following order:

:: <u>O R D E R</u> ::

(i) Bail Application No.2638 of 2019, is allowed;

(ii) Applicant is directed to be released on bail in connection with C.R.No.I–83 of 2019, registered with Kapurbawadi Police Station, Thane, on his furnishing P.R. Bond in the sum of Rs.50,000/-, with one or more sureties in the like amount;

(iii) Applicant shall deposit an amount of Rs.75,000/-, before the trial Court within a period of six weeks from the date of release, without prejudice to his defence;

(iv) Applicant shall report the concerned police station once in a month on first Saturday of the month between 11:00 a.m. to 01:00 p.m., till further orders;

(v) Applicant is permitted to furnish cash bail security in the sum of Rs.50,000/-, for a period of four weeks, in lieu of surety;

(vi) Bail Application No.2638 of 2019, stands disposed of accordingly.

(**PRAKASH D. NAIK, J.)**