

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO. 333 OF 2020

(Ganesh s/o Shriram Kaikade vs. State of Maharashtra thr. PSO, PS, Bajajnagar, Nagpur)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri S.P. Dharmadhikari, Senior Advocate with Shri
U.P. Dable, Advocate for the applicant.

Shri N.B. Jawade, APP for the non-applicant – State.

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CORAM : PUSHPA V. GANEDIWALA, J.
AUGUST 20, 2020.

Heard Shri S.P. Dharmadhikari, Senior Advocate with Shri U.P. Dable, learned counsel for the applicant and Shri N.B. Jawade, learned APP for the non-applicant – State, through video conferencing.

The applicant is said to be arrested on 23.10.2019 in Crime No. 332 of 2019 for the offence punishable under Sections 409, 420, 120-B of the Indian Penal Code, read with Section 3 of the Maharashtra Protection of Interest of Depositors Act, 1999, (hereinafter referred to as MPID Act) registered at Bajaj Nagar Police Station, Nagpur.

The First Information Report came to be filed by the informant Vilas Vitthalrao Bobade stating therein that he invested his hard earned money with the present applicant on the say of one Ajit Reddiwar,

on the promise by the applicant to receive handsome interest and other benefits as it was stated that the applicant was doing business in the name of Active Growth Forex Trading. It is stated that the other depositors also deposited lakhs of rupees with the hope that they will get 33.33% return. In this way, an amount of around Rs. One crore came to be deposited.

It is further stated that the depositors including the applicant also signed the agreements on the stamp paper mentioning post dated cheques with all details issued by the present applicant. However, when the present applicant did not return the said cheque amount with interest as promised and the cheques came to be bounced, FIR for the aforesaid offence came to be lodged.

The learned Senior Advocate appearing on behalf of the applicant mainly argued on the point of right of the applicant – accused of speedy trial. The learned Senior Advocate submitted that since around 10 months, the applicant is in jail and till date the charge could not be framed in the trial. The charge sheet runs into hundreds of pages and 50 witnesses have been cited by the prosecution for examination.

In support of his submissions, the learned Senior Advocate relied on the judgment of the Hon'ble Apex Court in the case of P. Chidambaram vs.

Central Bureau of Investigation, reported at 2019 SCC Online SC 1380.

The learned APP, however, strongly opposed the application in view of prima facie case for the offence punishable under Section 3 of the MPID Act and the offence of cheating under the IPC.

I have considered the submissions made on behalf of both sides and also perused the records.

At the outset, a perusal of the documents and the charge sheet at this stage, reflects a prima facie case for the offence punishable under Section 3 of the MPID and other sections of IPC.

The speedy trial is the precious right of the accused in the criminal justice system. The FIR came to be registered on 23.10.2019 while the charge sheet came to be filed on 20.01.2020. The applicant came to be arrested on 23.10.2019. Undisputedly, even after lapse of eight months, the charge could not be framed in the present case.

In the charge sheet, the statements of around 50 witnesses are shown to have been recorded and there are multiple documents to be brought before the Court.

While considering the application for bail, apart from seriousness of the offence and the nature of accusations, the possibility of the accused fleeing from justice or tampering with the evidence is also to

be looked into. In the instant case, the prosecution could not point out that the applicant did not cooperate during investigation or tried to tamper with the evidence.

In addition to this, the whole case is based on documentary evidence and it is stated that the prosecution has already seized all the documents and those are part of the charge sheet.

The learned APP, however, submitted that the co-accused, who is the wife of the present applicant, is absconding. On this, the learned Senior Advocate made a responsible statement that she would surrender before the Special Court.

Considering the aforesaid facts, the presence of the applicant during trial can be secured by imposing stringent conditions.

For the reasons aforestated, I find this to be a fit case for grant of bail on the following conditions :

The applicant – Ganesh s/o Shriram Kaikade, be released on bail on executing Personal bond of Rs. 2,00,000/- (Rs. Two lakh only) with one surety in the like amount.

The applicant shall not enter the vicinity of the area where the witnesses reside. He shall supply mobile number and the residential address where he shall reside during the bail period, to the concerned police station.

The applicant shall deposit his passport with the concerned police station.

The applicant shall not pressurize or issue threats to the witnesses.

The applicant shall not tamper with the evidence of the prosecution.

The applicant to attend concerned police station once in a month i.e. on every first Thursday of the month between 12.00 Noon and 2.00 P.M.

Criminal Application is disposed of accordingly.

JUDGE

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