IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 966 of 2020

Sunil Somani .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr. Niranjan Mundargi i/b Keral Mehta for the applicant.
Mr.S.H. Yadav, APP for the State.
API Pramod Nalawade, EOW Pune City present.

CORAM: BHARATI DANGRE, J.
DATED : 7th JULY 2021

P.C:-

1 The applicant is seeking his release on bail in connection with C.R.No. 365 of 2019 with the Khadak Police Station, thereby invoking offence punishable under Section 420, 467, 468 read with Section 34 of the IPC and Section 3 of the MPID Act. The applicant came to be arrested in connection with the said C.R on 26th September 2019 and the charge-sheet in the said C.R. is instituted on 21st December 2019, pursuant to which the case is registered as MPID Case No. 20 of 2019.

2 The complaint is instituted by one Rajani Mohite alleging that she is acquainted with the applicant since she had

subscribed to LIC policies through him and it is the applicant who introduced her to his son-in-law – accused no.1 since he was involved in share marketing. She state that the two then indulged in discussion about investment being made in the share market and the profits accruing therefrom. Thereafter, the allegation is that she parted with certain amount in the name of Motilal Oswal Securities Limited and the said amount was to be invested by accused no.1 in shares. It is alleged by the complainant that for initial period, she ripped the benefit out of the investment but subsequently realized that she has been duped and the complaint contain a list of 18 investors who had entrusted their huge amounts to the accused no.1 for investing in share market with an assured return of 18 to 22% but the return never came. The complaint allege that there are around 400 persons who were similarly misdirected.

3 Heard Mr.Niranjan Mundargi for the applicant and the learned APP Mr.Yadav for the State and perused the charge-sheet.

4 Accused no.1 Mahesh Lohiya IS a share broker operating in the name and style of Shivkanya Investment Holding franchise for Nirmal Bank Securities Pvt. Ltd since 2011. The applicant who is a LIC agent got his daughter married to Mahesh Lohiya in the year 2013. The applicant, an LIC agent has

invested an amount of Rs.1,26, 79,000/- with Mahesh Lohiya and in turn, received a meager amount of Rs.19,40,194/-. Since in the initial days, the applicant received his returns and the accused no.1 was officially dealing in share-marketing through prominent share-broking firms, the applicant admit that he had suggested name of his son-in-law for investing their amount in shares. However, subsequently, the accused no.1 started defaulting in re-payments and it was revealed that the had opened a bogus bank account in the name of Motilal Oswal Services and many more accounts in different names. The applicant then realized that he has been duped and misguided and he along with his daughter, lodged written complaint with the police station on 13th August 2019. Slowly, those persons who had made over their money to Mahesh Lohiya lodged complaint and the present C.R is registered on a complaint filed on 21st September 2019. The applicant is cited as one of the victims in the said FIR, his name being reflected at Sr.No.8 in the list of persons who had invested their amount with Mahesh Lohiya.

5 When the charge-sheet is perused, the role attributed to the present applicant is of introducing some persons to the accused no.1 but that was on account of the benefits of the shares and investment in holdings and he himself had invested his huge amount so as to be invested trading in the share market. The applicant is also cited as one of the victims who have lost his

amount of Rs.1,05,60,000/-. The statement of the persons who were introduced to Mahesh Lohiya by the applicant are compiled in the charge-sheet and except the allegation that Mahesh Lohiya was introduced to them by the applicant, none of the witnesses state that the applicant is beneficiary of any of the amountb or paid any amount to him. He was in relation to the accused no.1 and was aware that he is into share business and invest the amount through his investment holding. The applicant has not been attributed any other role. The applicant had not received single penny from the crime proceeds and on the other hand, he himself stands at a loss of more than Rs.One crore, of the money belonging to him.

6 Since the investigation is complete and the charge-sheet is already filed, having prima facie view of material contained in the charge-sheet, the applicant deserve to be released on bail subject to the following stipulation :-

O R D E R

(a) Application is allowed.

(b) The Applicant Sunil Somani shall be released on bail, in connection with C.R.No. 365 of 2019 registered with Khadak Police Station, on furnishing P.R. bond to the extent of Rs.50,000/- with one or two sureties of the like amount.

(c) The applicant is permitted to furnish provisional cash bail in the sum of Rs.50,000/- for a period of four weeks from today.

(d) The applicant shall attend the MPID Special Court on every date when the trial commences, unless and until he is exempted.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

7. All concerned to act on the authenticated copy of the order duly certified by the Advocate for the Applicant.

SMT. BHARATI DANGRE, J

Tilak