IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1230 OF 2020

Jayesh Vardichand Sanghvi … Applicant

Versus

The State of Maharashtra … Respondent

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Mr. Satyavart Joshi a/w Mr. Ish Jain, Mr. Kush Dhawan, Mr. Kiran Jain i/b. Kiran Jain & Co., Advocate for the Applicant.

Ms. Anamika Malhotra, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 10th MARCH, 2021

PER COURT:

1. The applicant is seeking bail in C.R. No. I-65 of 2020 registered with Navghar Police Station, Dist. Thane, for offences under Sections 406, 409 & 420 r/w Section 34 of Indian Penal Code (for short 'IPC') and Sections 3 & 4 of Maharashtra Prevention of Interest Depositors (in Financial Establishment) Act as well as Sections 3, 4, 5 & 6 of the Prize Chits and Money Circulation Scheme (Banning) Act, 1978. (for short 'PCMC Act')

2. The First Information Report (for short "FIR") was registered on 25th February, 2020. It is alleged that the complainant and several other investors were informed that Tanishque Group

Company is inviting investment with good returns. The complainant went to the office of the accused. The co-accused Dipak Kudalkar and Manisha Kudalkar were introduced to them by the applicant and it was represented that they are directors of the company. They were appraised about investment scheme of the company. Applicant also informed that, even he had invested the money and earning good returns. The co-accused Manisha Kudalkar is investigating the collected amount in Forex Traiding Company and earning returns. The complainant on the assurance had invested the amount. It is alleged that several other persons had also invested the amount expecting that they will get good returns. The applicant was arrested on 29th February, 2020.

3. Learned advocate for the applicant submitted that the applicant is in custody almost for a period of one year. The applicant was not director of the company. He was at the most acting as an agent of the company. Two directors of the company Dipak Kudalkar and Manisha Kudalkar were granted bail. The applicant himself had invested the amount in the said company. It is submitted that reliance is placed on several invoices. It is submitted that the applicant had invested about 14 Lakhs in the Company. He pointed out the statements of the some of the investors and submitted that the role that can be attributed to the applicant is that he was acting

as an agent and nothing beyond that. No amount has been found in the personal account of the applicant. Further detention of the applicant is not necessary.

4. Learned APP submitted that overt act has been attributed to the applicant by the complainant as well as other witnesses. The documents about his investment cannot be considered at this stage because it is not part of charge-sheet. It is not necessary that the applicant should be the director of the company. What is required to be seen is role played by him. His participation is disclosed in the statements of witnesses. Deepak Kudalkar was granted bail in accordance with Section 167(2) of Cr.P.C. whereas Manisha Kudalkar was bail, primarily considering the fact that she is lady. The role of the applicant can be distinguished.

5. I have perused the statements on record. The first informant has alleged that he was introduced to the directors by the applicant. There are three other accused in this case. Two of them were granted bail. Deepak Kudalkar has been granted bail for non filing of charge-sheet within stipulated time. Manisha Kudalkar has been granted bail by this Court on 2nd March, 2020. The statement would indicate that the applicant was present in the office and appraised the witnesses about the scheme. Applicant contends that

he is also investor. It appears that the applicant was acting as an agent. Apart from the invoices relating to investment of the applicant, learned advocate drew my attention to the statement which forms the part of charge-sheet where the name of the applicant has been shown as person having invested Rs.14,64,160/-. Learned APP submitted that there may be amount collected by him. The submission of learned counsel for the applicant and the statement as above is further fortified by the invoices/receipts annexed to the application. I have perused the statements of Tabbasum Khan, Vinayak Batawale and Vasant Pilke. It is pertinent to note that two directors of the company, for the reasons stated in their orders are granted bail. The applicant is in custody for a period of one year. Further detention of the applicant is not necessary. Hence, I pass the following order:

ORDER

(i) Criminal Bail Application No.1230 of 2020 is allowed;

(ii) The applicant is directed to be released on bail in connection with C.R. No. I-65 of 2020 registered with Navghar Police Station, Dist. Thane, on executing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount;

(iii) The applicant shall report concerned Police Station once in a month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. for a period of six months and thereafter, once in three months on first Saturday of the month between 11:00 a.m. to 1:00 p.m till further order;

(iv) The applicant shall not tamper with the evidence.

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

(vi) Parties to act upon authenticated copy of this order.

(vii) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)