

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3432 OF 2019

Umang Kanakbhai Shah .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr. Sanjeev Kadam i/b Mr. Sachin R. Pawar for the Applicant.

Ms. Veera Shinde, A.P.P. for the State.

Mr. undan S. Patil, P.N., CBI, Thane City, is present.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 19TH MARCH, 2021.

P.C:-

1. Heard Mr. Kadam, learned counsel appearing for the Applicant and Mr. Patil, learned counsel appearing for the CBI and Ms. Shinde, learned A.P.P. appearing for the State.

2. My attention is invited to the order dated 22/02/2021 passed by this court when, claiming parity with the co-accused

Prakash More, who was released on bail subject to he offering his properties as securities in order to secure the interest of depositors on being charge-sheeted under Section 3 of the MPID Act, a statement was made by the father of the Applicant by way of an affidavit, offering Flat No.29/A on the third floor located in Surat, as security to secure the investment of the depositors.

3. Mr. Kadam, learned counsel for the Applicant states that subsequently, it was found that the said flat is already mortgaged with ICICI Bank and, therefore, it is encumbered and on that aspect being revealed, this very court had directed that to show his *bonafide*, he should come up with an amount of Rs.5 lakhs initially and, in total, he should deposit an amount of Rs.10 lakhs, which would secure the interest of the depositors. This statement is not disputed by learned A.P.P.

4. On perusal of the FIR, it can very well be discerned that the Complainant has lodged the complaint on 29/03/2019, pursuant to which an offence under the MPID Act was invoked and the present accused is arraigned as one of the accused along with Prakash More, who has induced the Complainant to invest in the company known as M/s. Kripto Trade W S Company and, on account of this inducement and assured return being promised, the Complainant expressed his willingness to invest in the said Company. When the Complainant desired that he should pay the amount from his account, Prakash More (accused

No.1) informed him that the amount can be accepted only through “Bitcoin” and the cash amount cannot be accepted. Mr. More had forwarded him two account numbers and one of the accounts belongs to the Applicant - Umang Shah with the IFSC Code of SBI Bank, as mentioned in the complaint. The version of the Complainant is that he deposited an amount of Rs.7,05,000/- in this account through RTGS. The liability of the Applicant, therefore, can be approximated to Rs.7,05,000/- even if the averments in the complaint are accepted in totality.

5. I have perused the order dated 27/01/2021 passed by this court in Criminal Bail Application No.2730 of 2019 in case of Prakash Govind More. This court, considering the interest of the depositors, had permitted the main accused to have a valuation of the properties and, on noting that there are no encumbrances on the properties, accepted the same as security towards the amount due and released the accused on bail subject to the stipulation mentioned therein. I see no reason why the benefit of the said order and the same analogy cannot be made applicable to the present Applicant considering his minimal involvement to the extent of Rs.7,05,000/- and when the Applicant has expressed that he is ready to secure the said amount by depositing an amount of Rs.10 lakhs.

6. Today, Mr. Kadam, learned counsel for the Applicant has tendered an affidavit which is sworn by the father of the

Applicant – Kanak Hiralal Shah. The said affidavit is taken on record. In the said Affidavit in paragraph Nos.2 and 3, he has made the following statements.

“2. I say that, Mr. Umang Kanakbhai Shah is shown as Accused No.5 in the above said Offence. I say that, I am filing this Affidavit on behalf of myself and on behalf of my son i.e. Mr. Umang Kanakbhai Shah, the Applicant herein, thereby giving undertaking to this Hon’ble Court, without prejudice to the merits of the trial that, as/and by way of the pre-condition of the regular Bail. I am ready and willing to deposit Rs.10,00,000/- (Rupees Ten Lakh only) as per the schedule given below:

A. Rs.5,00,000/- (Rupees Five Lakh Only) by Demand Draft No.102757 dated 04/03/2021 in the name of the Registrar, Appellate Side, Bombay High Court. Hereto annexed and marked as Exhibit-A1 is copy of Demand Draft.

B. Rs.5,00,000/- (Rupees Five Lakh Only) within 45 days from the date of release of the Applicant on Bail.

3. I say that, I have no objection if the Investigation Officer in the above said matter is allowed to withdraw the said amount of Rs.10,00,000/- (Rupees Ten Lakh Only) from this Hon’ble Court and distribute the same amongst the depositors/investors/victims in the above said matter subject to final outcome in C.R. No.83 of 2019 registered with Kapurbavdi Police Station.”

7. In terms of the said Affidavit, learned counsel for the Applicant has tendered a Demand Draft for Rs.5,00,000/- (Five Lakhs only) in the name of the Registrar, Appellate Side, Bombay High Court. The same is taken on record and directed to be remitted to the account of the Registrar, forthwith. In the light of the above, the Applicant is entitled to be released on bail subject to the following conditions:

:ORDER:

- (a) The Applicant – Umang Kanakbhai Shah shall be released on bail in C.R. No.83 of 2019 registered with Kapurbawadi Police Station on executing P.R. bond in the sum of Rs.50,000/- and furnishing one or two sureties of the like amount.
- (b) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.
- (c) The Applicant shall give his permanent residential address to the Investigating Officer along with his contact number and keep the Investigating

Officer informed about any change in the address or his contact number.

(d) The Applicant shall mark his attendance, once in two months in the Special Court, Thane, dealing with Special Case No.10 of 2019 and, when the trial commences, he shall attend to the trial on all days, unless exempted.

(e) On failure to deposit the remaining amount of Rs.5,00,000/- (Rupees Five Lakhs only) within 45 days from the date of release of the Applicant as undertaken in the Affidavit dated 05/03/2021, the bail granted to the Applicant shall stand cancelled and the Applicant shall surrender forthwith.

8. The Application is allowed in the aforestated terms.

SMT. BHARATI DANGRE, J.