

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

CRIMINAL APPLICATION (ABA) NO.17 OF 2021

(Poonam Dipak Urkude and another Vs. State of Maharashtra thr. its PSO Ps
Sitabuldi, Nagpur)

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

Court's or Judge's orders.

Mr. R.V. Gahilot, Advocate for Applicants.
Mr. M.K. Pathan, APP for Non-Applciant/State.

CORAM: ROHIT B. DEO, J.
DATE: 22nd FEBRUARY, 2021.

The applicants are apprehending arrest in Crime 36/2018 registered with Police Station Sitabuldi, Nagpur for offences punishable under Sections 420, 406, 409 read with Section 34 of the Indian Penal Code, Section 3 of the M.P.I.D. Act and Section 45(s) of the R.B.I. Act.

2. This Court protected the applicants vide order dated 19.01.2021. The applicants were directed to attend the police station on 21st, 22nd and 23rd January, 2021. Subsequently, noting the submission of the learned APP that custodial interrogation is necessary to discover certain important facts under Section 27 of the Indian Evidence Act, the applicants were directed to attend the concerned police station from 11:00 a.m. to 05:00 p.m. on 15th, 16th, 17th and 18th February, 2021. This Court further directed that the period during which the applicants shall be available for

interrogation be considered as deemed custody for the purpose of Section 27 of the Indian Evidence Act.

3. The applicants have attended the police station and have answered the queries posed by the Investigating Officer. The Investigating Officer is not satisfied with the answers, in the sense that according to the Investigating Officer the applicants did not disclose who created the e-mail I.D. monaligo@gmail.com and the password thereof.

4. The learned counsel for the applicants points out that the e-mail I.D. address pertains to the complainant's mother, who was enrolled as a member of the scheme by the complainant. It is further pointed out, that the applicants have no motive for either creating the I.D., or deleting the account or the password, as is alleged by the complainant Saket Gothe since his mother was not enrolled as a member of the scheme by the applicants.

5. I have considered the material in the case diary. It appears that the fraud is perpetrated by Q-net Company. The scheme is obviously a ponzi scheme. A member of the scheme is made an independent representative (I.R.) subject to he enrolling other members in the scheme. Notably, even the complainant Saket Gothe became an I.R. after enrolling certain members in the scheme. At this stage, the possibility that the applicants are victim, rather than active participants in the fraud, cannot be ruled out.

6. No useful purpose shall be served by custodial interrogation. Further, the investigation is not likely to suffer if the applicants are protected.

7. The interim protection granted vide order dated 19.01.2021 is made absolute with the only modification that till the filing of the charge-sheet, the applicants shall attend the concerned police station as and when required by the Investigating Officer.

JUDGE