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

CRIMINAL REVISION NO.80 OF 2020

Abhijit s/o Jayant Chaudhary,
Aged 34 years, occupation : Nil, R/o
Plot No.2, flat No.1, S.A.Road,
Laxminagar, Nagpur.
Presently in jail. ….. **Applicant**.

:: **V E R S U S** ::

State of Maharashtra,
Through PSO Civil Lines,
Akola, taluka and district Akola. ….. **Non-applicant**.

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Shri M.V.Rai, Counsel for the applicant.
Mrs.Mrunal Barabde, Addl.P.P. for the State.

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CORAM : V.M.DESHPANDE, J.
DATE : FEBRUARY 23, 2021

ORAL JUDGMENT

1. Heard learned counsel Shri M.V.Rai for the applicant and learned Additional Public Prosecutor Mrs.Mrunal Barabde for the State. **Rule**. Rule is made returnable forthwith. Heard finally by consent of learned counsel for parties.

2. By this revision, the applicant is challenging order date 20.2.2020 passed by learned Additional Sessions Judge, Amravati below Exhibit 84 in Special MPID Case No.34/2015 whereby learned Judge below rejected application filed on behalf of the applicant for his discharge from Crime No.291/2014.

3. A only submission made on behalf of learned counsel for the applicant is that though the applicant is a director of Wasankar Wealth Management Co.Pvt.Ltd., his role is not crystallized in the prosecution case and, therefore, he be discharged.

4. *Per contra,* learned Additional Public Prosecutor Mrs.Mrunal Barabde for the State supported reasoning given by learned Judge below.

5. Crime No.291 of 2014 is registered for offences punishable under Sections 406, 420, 409, 120-B read with Section 34 of the Indian Penal Code and read with Section 3 of the MPID Act, 1999 with Frezarpura Police Station, district Amravati on the

report lodged by one Sanjay Shelke. The report was lodged against one Prashant Wasankar, Bhagyashri Wasankar, Vina Wasankar, Chandrakant Rai, Abhijeet Chaudhary, and Manoj Pande. Gist of allegations in the First Information Report is that persons named in the First Information Report including the present applicant, allured the first informant and on the allurement the first informant invested money with Wasankar Wealth Management Co.Pvt.Ltd. and they failed to repay the amount invested by the first informant with the said financial establishment.

6. In the First Information Report, the complainant has specifically stated that along with other co-accused the present applicant also gave allurement to him and his wife for investment of their hard earned money in the said company on the pretext that they will be able to get double of the amount which they will be investing and relying on the allurement made by the applicant and others the first informant deposited amount.

7. Chargesheet is filed. During course of investigation, it was found that the applicant who is one of directors of the said company has cheated hundreds of depositors and has siphoned their money. The applicant is arrested on 13.8.2014. It is reported to this Court by learned counsel for the applicant that in spite of applicant's repeated attempts to get himself released on bail, the bail is denied to him by Court below as well as by this Court. It is also reported to this Court that the applicant's bail application is also rejected by this Court after filing of chargesheet and presently he is in jail.

8. *Prima facie*, it is not disputed before this Court by learned counsel for the applicant that the said Wasankar Company is a financial establishment as contemplated under Section 3 of the MPID Act. Admittedly, the applicant is a director. Statements of depositors also show that the applicant has taken active role in alluring various depositors of the said Wasankar Company. In the First Information Report, specific allegations are made against the applicant.

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9. At the stage of framing of charge, the Court need not evaluate evidence of the prosecution as to whether the person who has filed application for discharge is required to be acquitted. What is to be seen at the stage of framing of charge whether sufficient material is there against the said persons to frame charge. It will of course be open for the prosecution to lead evidence during the course of the trial to bring home guilt of the persons against whom charge is framed.

10. It is trite law that even if there is a grave suspicion against persons against whom charge is framed, that is sufficient to frame charge. It will be useful to refer to paragraph No.15 of the judgment of the Honourable Apex Court in the case of Central Bureau of Investigation, Hyderabad vs. K.Narayana Rao, reported at (2012)9 SCC 512 and the said is reproduced herein below :

> *"From the above decisions, it is clear that at the initial stage, if there is a strong suspicion which leads the court to think that there is ground for presuming that the accused has*

> *committed an offence, in that event, it is not open to the court to say that there is no sufficient ground for proceeding against the accused."*

11. In the present case, specific allegations are made against the applicant, one of directors of Wasankar Company. Not only that in the First Information Report itself the first informant has made specific allegation that believing the allurement of the applicant he and his wife invested money.

12. In this view of the matter, learned Judge below was right in rejecting the application filed by the applicant refusing to discharge. No case is made out. The criminal revision is rejected. Rule is discharged.

JUDGE

!! BRW !!