IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
CRIMINAL APPLICATION(BA) NO. 364 OF 2021

Shri Dnyaneshwar s/o Govindrao Bawane ..vs..
State of Maharashtra

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Shri A.S Manohar, Advocate for Applicant.
Shri I.J. Damle, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.
ORDER RESERVED ON : 23/06/2021
ORDER PRONOUNCED ON : 30/06/2021

Hearing was conducted through Video Conferencing.

2. The applicant/accused is seeking grant of regular bail in Crime No.251 of 2020 for the offence punishable under Sections 420, 406, 409, 120-B of the Indian Penal Code, Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (hereinafter referred to as “MPID Act”) and Section 45 (s)of the Reserve Bank of India Act, 1934. On the basis of report dated 13.11.2020 lodged by one of the investor namely Ganesh Chafle, crime was registered, in which the applicant came to be arrested on 17.11.2020 and since then, he is in jail.

3. Learned Counsel for the applicant while agitating claim of bail, has led stress on the point that the main accused namely Vijay Gurnule has formed a Company and floated various investment schemes.

The applicant was mere an employee of the Company and was working on the instructions of the Chairman of the Company i.e. Vijay Gurnule. The applicant is also one of the investor who was, in fact, cheated for huge amount. Though the applicant was referred as a Founder Member in the Company brochure, however the master data no where discloses that the applicant was Director or part of the management of the Company. According to the applicant, he did not receive any benefits, however his bank account along with his wifes' account were seized, blocking amount of Rs.8 lakhs. Moreover, bail is claimed by invoking the rule of parity by pointing towards release of co-accused namely Tanmay Jadhav.

4. On the other hand, the State has stiffly resisted the bail application by filing affidavit-in-reply. The entire prosecution case in brief has been narrated in the reply. In sum and substance, the applicant in privy with Vijay Gurnule has established 'Metro Vision Buildcon (India) Limited' (for short 'the Company'). They floated lucrative investment schemes to allure public at large under a promise of paying high returns. The hard earned money of several persons were accepted and duped. The applicant took active role in promoting various schemes and had also posed himself as a Founder Member of the Company. The applicant also received the monitory benefits from the Company, which is evident from his bank account.

The State has referred several statements of the witnesses filed in tabular form to contend that the applicant took active part, arranged several investors' meeting, encouraged hundreds of investors, even promised for giving plots and as such he played an active role in the entire fraudulent affair. It is submitted that still several investors are approaching to the Investigating Agency with their grievances, and forensic audit is going on. In resistance the learned A.P.P. appearing for the State has placed reliance on the decision of the Supreme Court in the case of ***Nimmagadda Prasad vs. Central Bureau of Investigation (2013) 7 SCC 466*** wherein well known principles for grant of bail in economic offences, have been laid down. In response to the claim of bail on parity, it has been stated that the case of co-accused Tanmay Jadhav stands on different footings. The applicant specifically posed himself as a Founder Member and business adviser. He had arranged seminars and encouraged people. This being a distinct feature of grave nature, the rule of parity would not apply.

5. On 13.11.2020, informant Ganesh Chafle lodged a report with the Police alleging that some co-accused have approached to him with a request to invest money in various schemes floated by the Company. Under the promise of getting handsome returns, he invested huge amount, however, it was

not returned. During the course of investigation, several co-accused came to be arrested. The bank accounts were frozen, house search were taken, thousands of documents were also seized. The Investigating Agency recorded statement of various persons including investors, employees of the Company, etc.

6. It reveals that main accused Vijay Gurnule has formed a Company namely 'Metro Vision Buildcon (India) Limited' a trade Company which floated various schemes promising the investors of receiving handsome returns. It was assured that the received amount would be invested in real estate, crypto currency, stock market, etc. The Company would only retain 15 percent of the returns whilst rest of the profit would be divided and distributed amongst the investors. After few initial installments, the Company showed its inability to return the amount of several investors. It reveals from the police papers that so far there were near-about 250 investors and the embezzled amount is around Rs.66.33 crores.

7. With the assistance of both sides, several statements were gone into. For the sake of convenience, both sides have tendered a brief compilation of the documents on which they are relying. Various statement of the investors, *prima facie*, indicates that the applicant had arranged

various seminars, physically and virtually, and encouraged the common man to invest money in different schemes. It is applicants' stand that he was mere an employee of the Company and was acting on the instructions of main accused. In other words, he has no role in the management nor he was policy maker. The applicant by placing reliance on the decision of this Court in the case of ***Shyam Rajvilas Basude vs. State of Maharashtra 2020 (3) ABR (CRI) 526*** contended that in said case also, the District Manager of Credit Society was released on bail. There can be no dispute on the proposition that facts of two criminal cases are hardly identical. On the basis of emerging material, the claim of the applicant has to be decided. Several factors like the nature of accusation, severity of punishment, reasonable apprehension of tampering, reasonable possibility of securing the presence, peculiar circumstances of the case, role played by the applicant and larger public interest are some of the guiding factors.

8. Undeniably, hundred's of depositors have invested their hard earned money in the various schemes floated by the Company. Pertinent to note that, undeniably, the applicant by posing himself as a Founder Member of the Company, used his management skills in arranging various meetings, seminars to convince and attract the investors. Learned Counsel for the applicant would submit that

the applicant is neither partner nor Director of the Company for which he has produced the master data sheet. However, it is not in dispute that while organizing various schemes, seminars, meetings, the Company has used pomplates showing the applicant's photograph in the capacity of the Founder Member and business adviser. Though the applicant denied that he was a Founder Member, however, the fact remains that for public at large, he has posed himself as a Founder Member which matters much. The applicant was published as face of the company. There are statement of several investors of which somewere gone into, wherein they stated about the active role of the applicant in conducting camps, seminars to channelize and encourage the people to invest the money under the promise of high returns. Some bank accounts are produced showing the entries that the applicant had received certain amounts.

9. Having regard to the applicants' prime role of posing himself as a Founder member of the Company, his case stands on grave footing than that of the released accused Tanmay Jadhav. It appears that, yet, further investigation is going on and forensic audit is under way. Undoubtedly, the hard earned money of a common man is at stake, and therefore, the matter needs a serious view.

10. Considering the applicants' role and the

material indicating his involvement, at this stage, it is not in the interest of the society, to release him on bail. In view of the above, following order :

(a) The Criminal Application stands rejected. However, the applicant is at liberty to approach this Court after one year, if, trial does not commence.

JUDGE

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