

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

CRIMINAL APPLICATION (BA) 716 OF 2021

(Jawandas s/o. Anandrao Dandhare..vs.. State, thr PSO, PS Ranapratap Nagar, Nagpur)

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

Court's or Judge's orders.

Mr. A.K. Bhangde, counsel for applicant.
Mrs. K.R. Deshpande, APP for non-applicant/State.

CORAM: ROHIT B. DEO, J.
DATE:10.08.2021.

Heard.

2. The applicant, who is in custody since 23.11.2020, is seeking bail in connection with Crime 251/2020, registered with Police Station Rana Pratap Nagar, Nagpur, for offences punishable under sections 406, 409, 420, 120-B of Indian Penal Code ("IPC"), section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 and section 45(S) of Reserve Bank of India.

3. The crime is registered on the basis of report dated 13.11.2020, lodged by Mr. Ganesh Safale.

4. The gist of the prosecution case, as is discernible, from the Final Report submitted under section 173 of the Code of Criminal Procedure, 1973("Code") is that applicant Jivandas Dandhare, despite being aware that Metro Vision Buildcon The Real Trade ("Metro Vision") is not authorized to accept deposits or investments, induced gullible investors to invest various amounts in the said company, the investors did not receive the interest and / or profit assured, much less the principal amount, and ultimately Metro Vision shut shop.

5. I have heard the learned counsel for the applicant Mr. A.K. Bhangde and the learned APP Mrs. K.R. Deshpande.

6. Mr. A.K. Bhangde would submit that even if the entire material in the chargesheet is taken at face value, the applicant has made out a case for grant of bail. This submission is premised on the applicant, being a victim, rather than a co-conspirator. Mr. A.K. Bhangde invites my attention to the uncontroverted material on record to

emphasize that the applicant has himself invested as many as ₹ 27 lacs, either in his name or in the name of his wife.

7. Mrs. K.R. Deshpande, the learned APP is opposing the application vehemently. The learned APP has taken me through the entire material on record including the statements of the witnesses. The statements fall in two categories. The first set is the statements of the witnesses, who according to the prosecution, were induced by the applicant to invest in Metro Vision or its sister concerns and the second set is the statements of witnesses, who state in unison with the applicant, alongwith co-accused, participated in zoom meetings and webinars and painted a rosy picture of the investment plans offered by Metro Vision.

8. Perusal of the statements of the investors, who according to the prosecution, were induced to invest in Metro Vision reveals a significant common feature. Every witness states that when the applicant suggested or recommended the investment, the witness did not believe

in the recommendation and the witness alongwith the applicant visited the office of Metro Vision to seek assurance of the credibility of the company.

9. It may not be appropriate to examine the material on record too minutely. However, the thinking process underlying the ultimate order will have to be disclosed. The prima facie impression which is gathered from the material on record is, that the applicant may have acted rashly or naively or may be even foolishly, in the sense that he himself invested a huge amount in Metro Vision, and that the applicant may not necessarily have recommended the investment plans of Metro Vision with a culpable intent.

10. I have not come across any material in the Final Report to suggest that the investors deposited any amount directly in the account of the applicant or that the relationship or nexus of the applicant with Metro Vision was something more than that of a investor and marketing agent. I have not come across any material in the Final

Report, and indeed, it does not appear to be even the case of the prosecution, that the applicant is either a Director or otherwise a stakeholder in Metro Vision or that he played any role in conceptualizing the fraudulent schemes or formation of Metro Vision.

11. The learned APP Mrs. K.R. Deshpande, is relying on the order dated 30.6.2021 rendered by this Court (Coram : Shri Vinay Joshi, J.) rejecting the application under section 439 of the Code preferred by co-accused Mr. Dnyaneshwar Bawane.

12. It is too well settled to make reference to precedential law that the principle of parity has no relevance much less applicability if the bail application of the co-accused is rejected. However, as a matter of judicial discipline, I have scrutinized the reasons recorded by the co-ordinate Bench. The rejection order observes that having regard to the prime role of co-accused Dnyaneshwar as “founder member of the company” his case stands on a different footing than the case of Mr. Tanmay Jadhao who is

released on bail, by the learned Sessions Judge. The said observation is made by the learned Judge after noting that Dnyaneshwar Bawane was the “face of the company” as is apparent from the fact that his photograph was published in the brochures of the company, which refer to Mr. Dnyaneshwar Bawane as a “founder member”.

13. I have already noted that the applicant, is more likely than not, a gullible and naive person, who himself fell pray to the fraudulent intent of Metro Vision, and unfortunately, played a role in causing a similar loss to the others. This of course, is a prima facie observation made for the limited purpose of deciding the applicant’s entitlement to bail and it would obviously be for the trial Court to come to an appropriate conclusion after the evidence is adduced.

14. I am consciously not making any definite observation on the prima facie applicability of section 409 or 120-B of IPC. Even if it is assumed arguendo, that the said penal provisions could have been invoked, the fact that the punishment provided is severe, is not an absolute fetter

on the exercise of discretion under section 439 of the Code.

15. It is not even argued that the applicant has criminal antecedents or that he is likely to pose a flight risk.

16. Continued incarceration shall serve no purpose.

17. The applicant has made out a case for grant of bail.

18. The application is allowed.

19. The applicant be released on bail in connection with Crime 251/2020, registered with Police Station Rana Pratap Nagar, Nagpur, for offences punishable under sections 406, 409, 420, 120-B of Indian Penal Code, section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act and section 45(S) of Reserve Bank of India, on executing PR bond of Rs. 16,000/- (Rupees Sixteen Thousand) with one solvent surety of the like amount.

20. The applicant shall not, directly or indirectly, make

any attempt to influence the witnesses or otherwise tamper with the evidence.

21. The applicant shall not leave the country without the permission of the trial Court.

Judge

Belkhede