IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2228 OF 2021

Ganesh Mohan Mastud .. Applicant

Versus

The State of Maharashtra .. Respondent

…

Mr. Aniket U. Nikam with Aashish Satpute amd Amit Ichan and Piyush Toshniwal for the applicant.
Mr.S.H.Yadav, APP for the State.
API Pravin Kadam from EOW, Navi Mumbai present.
Mr.Dinesh Mastud, applicant's brother present in Court.

CORAM: BHARATI DANGRE, J.
DATED : 20th OCTOBER, 2022

P.C:-

1 The applicant face charges u/s. 409, 420 r/w Section 34 IPC, section 3, 4, 6 of the Prize Chits and Money Circulation (Banning)Act, 1978 and Section 3 of the MPID Act, 1999 in C.R.No.27/2020 registered with APMC Police station.

He came to be arrested on 30/1/2020 and suffer incarceration since then, on his bail application being rejected by the Sessions Judge, Thane on 2/12/2020.

2 Heard learned counsel for the applicant and the learned APP for the State.

The prosecution case, which could be discerned from the charge-sheet surfaces through the First Informant, stating that she was desirous of investing her late husband's money and came to know about the investment firm styled as "Royal Pay" at Vashi. She approached the said firm on the address mentioned and met one Mr.Mehul Bhansali. She was informed that Ganesh Mastud (present applicant) and one Mangesh Chavan were the owners of the firm and they would handle the money that would be invested. Accordingly, the complainant parted with a sum of Rs.5,90,000/- and she gained an entry on the 'Royal Pay' website. She was assured regular returns which in fact, she received for some days, but thereafter, but one day found the office suddenly shut.

This resulted in registration of the subject C.R against five accused persons, four of whom are arrested. The applicant came to be charge-sheeted as accused no.1.

3 The learned counsel for the applicant Mr.Nikam has placed on record the two distinct orders passed in case of co-accused Kunal Baviskar and Mehul Bhanushali, who came to be released on bail on appreciating the case of the prosecution.

I have perused the said orders and find substance in the submission of Mr.Nikam that Mehul Bhanushali is attributed an identical role as the present applicant as Director of BYS Multi Trading Pvt.Ltd and the argument advanced is, it is not in his company in which the money was invested by the investors. It was claimed that there was no connect with Royal Pay Multi Services, Royal Pay, or other companies in which the investment was made.

On being confronted that the amount was transferred to BYS Multi Trading Pvt.Ltd, Mr.Bhanushali expressed his willingness to deposit the said amount and this being imposed as a condition for his release, the order came to be passed on 28/2/2022 by the Addl. Sessions Judge, Thane in MPID Special Case No.290/2020, releasing on bail.

4 The material compiled in the charge-sheet reveal that the total amount involved in the subject C.R is Rs.44,38,000/-, and in the affidavit filed by the Officer attached to EOW, he has given the bifurcation of the amount that was received by different accused persons. The amount to the tune of Rs.44,38,000/- was invested by seven investors and as per the affidavit, the applicant played a significant role in inducing the investors to invest in the Company and he is alleged to have accepted the amount from two of the investors to the tune of Rs.2,03,000/-. It is alleged that this amount which was received in cash, and it was not deposited in the Company's bank account, but it was used for his personal purpose. Apart from this, a specific statement is made in the affidavit that as per the KYC documents of the Axis Bank, the bank account was operated by the applicant and he used the amount to the tune of Rs.9,80,500/- for his personal use.

5 On being confronted with the aforesaid statement, the learned counsel Mr.Nikam make a statement that the applicant shall deposit the aforesaid amount of Rs.9,80,500/- plus Rs.2,03,000/- with the MPID Court, so that the interest of the investors can be secured.

A specific statement is made by him that, an amount of Rs.Two lakh would be deposited as a pre-condition of his release and the remaining amount shall be deposited within a period of four weeks after the release.

6 I am ready to accept the said statement subject to the stipulation that it shall be abided. It can be seen that the co-accused with the identical role is already released on bail and the order releasing him on bail not being questioned by the prosecution, the applicant deserve a similar treatment with a better offer coming from him that, he is ready to deposit the entire amount that is alleged to have been received by him or used by him from the account which was opened by using his KYC documents.

Hence, the following order :

<u>O R D E R</u>

(a) Application is allowed.

(b) The Applicant – Ganesh Mohan Mastud in connection with C.R.No.27/2020 registered with

APMC Police Station, shall be released on bail on furnishing P.R. bond to the extent of Rs.50,000/- with one or more sureties of the like amount.

The applicant shall be released on cash bail of Rs.50,000/- in lieu of sureties for a period of six weeks. During the said period, the applicant shall arrange for the sureties.

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.

(d) The Applicant shall attend the trial on regular basis.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change.

(f) The applicant shall deposit a sum of Rs.Two lakhs in the MPID Court, as a pre-condition of his release on bail.

Upon his release, the balance amount of Rs.9,83,000/-, shall be deposited in MPID Court within a period of six weeks.

(SMT. BHARATI DANGRE, J.)

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