IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3397 OF 2021

Mukesh Dattatray More .... Applicant
Versus
The State of Maharashtra .... Respondent

Mr. Sandeep Mishra, Advocate for the Applicant.
Mr. P.H. Gaikwad, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 31st JANUARY, 2022
[Through Video Conferencing]

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No.331/2019 dated 23.9.2019 registered at Nehru Nagar police station, Mumbai under Sections 420, 409, 34 of the Indian Penal Code.

2. Heard Shri Sandeep Mishra, learned counsel for the applicant and Shri P.H. Gaikwad, learned APP for the State.

3. The prosecution case, in short, is that the applicant and the co-accused Harun Rashid Shaikh, in collusion with each other, opened offices in the names of

'K.G.N. Security', 'K.G.N. Associates', 'K.G.N. Services and Associates', 'K.G.N. Enterprises', 'Sai Sharada Co-operative Credit Society' and 'Mount Mary Nagari Co-operative Credit Society'. They induced various persons to invest in these entities. The specific case restricted to the present investigation is that the co-accused Harun Rashid Shaikh obtained Rs.4,10,000/- between September, 2018 to September, 2019 from the first informant Zeenat and Rs.1,20,000/- from her sister Mehamunissa. Said amount of Rs.5,30,000/- was not returned.

4. The FIR was lodged by the informant Zeenat on 23.9.2019. She has stated that through her relative's social media group she came to know that M/s. K.G.N. Associates, Bhandup was implementing various schemes for investment and was offering double the amount invested. The informant was interested. She made a phone-call on the number mentioned in that message. That number was of the co-accused Harun Rashid Shaikh. He came to the house of the informant. He introduced himself as a Director of K.G.N.

Company and told the informant that the present applicant was a Co-Director. He told the informant about the profits in investing in their company and gave information about their various schemes. He assured that the victim's amount will be doubled. Initially the informant told him that she had Rs.1,20,000/-. He had promised certain returns by way of installments; and after a year she was promised in all Rs.2,40,000/-. The informant showed willingness to invest Rs.1,20,000/-. Harun Shaikh told the informant that the amount be given in cash. She accordingly gave Rs.1,20,000/- in cash. After that, she was included in a WhatsApp group by the name 'KGN'. She got swayed away by various messages in the group, and gave Rs.2,40,000/- for investing in the scheme where her amount was to be made double. She invested Rs.50,000/- more. Thus, in all she invested Rs.4,10,000/-. The informant told about this scheme to her sister Mehamunissa. She also invested her own Rs.1,20,000/-. Thus, the informant and her sister invested Rs.5,30,000/-. After that, not a single rupee was returned. The informant visited the office of KGN Associates, but, the office was closed. On further enquiries, she came to know that both the accused had taken different amounts from various investors and had duped all of them. On this basis, the FIR was lodged. The investigation commenced. The applicant was arrested on 23.9.2019.

5. The charge-sheet contains a statement of the informant's sister Mehmunissa. She has supported the informant's case about this witness's own investment of Rs.1,20,000/-.

6. Learned counsel for the applicant submitted that the co-accused Harun Shaikh, who had played the main role, is released on bail pursuant to the order dated 10.12.2021 passed by the Additional Sessions Judge, Greater Mumbai in Criminal Bail Application No.2712/2021. He submitted that on the ground of parity, as the applicant had played a much lesser role, he also deserves to be released on bail.

7. He submitted that though the charge-sheet mentions various amounts of other victims as well, besides the

informant and her sister, they are not part of this investigation and for that purpose different offences are registered and the applicant is already granted bail in five of them.

8. He submitted that the allegations in this particular investigation are restricted to the amount of Rs.5,30,000/-. He submitted that the applicant is in custody since 23.9.2019, that is, for quite a substantial period. The trial has not yet begun.

9. Learned APP relied on the charge-sheet, but, he fairly accepted that the present investigation is restricted to the investment made by the informant and her sister to the tune of Rs.5,30,000/-. He also fairly admitted that though the charge-sheet contains various other statements of other victims, they are included in the present charge-sheet as part of investigation in other offences. Learned APP, on instructions, makes a very specific statement that this particular investigation is restricted to the amount of Rs.5,30,000/-.

10. I have considered these submissions. As

submitted by learned APP, the charge which is mentioned in the charge-sheet at the end of the charge-sheet is also restricted to the tune of Rs.5,30,000/-. Though, in the description the amount involved which is taken from other victims is mentioned to the tune of Rs.1,95,58,000/-, that amount was transferred from the co-accused Harun Shaikh's bank account to the applicant's account; and then it was siphoned off.

11. The amount which has come to the applicant's account is certainly a big amount. However, this amount is the total from all the offences registered against the present applicant. This particular investigation is specifically restricted to the amount of Rs.5,30,000/-. The narration made by the first informant showed that the inducement was specifically made by the co-accused Harun Shaikh. There was no direct meeting between the applicant and the informant. Therefore, the applicant's role is definitely lesser than that of co-accused Harun Shaikh, who is granted bail by the Sessions Court in the present case, as mentioned earlier. Therefore,

both; on the ground of parity as well as on the ground of being in custody for a very long time in connection with the present offence which is restricted to Rs.5,30,000/-, the applicant also deserves to be released on bail. It is made clear that this order and observations are restricted to C.R. No.331/2019 registered at Nehru Nagar Police Station. Hence, the following order :

ORDER

(i) In connection with C.R.No.331/2019 registered with Nehru Nagar police station, Mumbai, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two local sureties in the like amount.

(ii) The applicant shall attend all the dates in the trial Court unless prevented by a reasonable cause and unless exemption is granted by the trial Court.

(iii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)