

Usman Gani S/o. Mohammad Shaikh ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. Majeed Memon for the Applicant.
Ms. M.R. Tidke, APP for the Respondent –State.

CORAM : C.V. BHADANG, J.

DATE : 12 JANUARY 2022
(Through Video Conferencing)

By this application the applicant (Accused No.2) is seeking bail. The Applicant along with two others has been charge-sheeted for the offence punishable under section 420, 406, 465, 468 and 471 read with Section 120B of the Indian Penal Code and Section 3 and 4 of the Maharashtra Protection of the Interest of Depositors Act ('MPID' for short), arising out of Crime No.93 of 2021 registered with Roha Police Station, District-Raigad.

2. The aforesaid offence came to be registered on the basis of the complaint lodged by Danish Altaf Nooraji who is a

student resident of Roha. According to the informant he was introduced to the Accused No.1 Asif Abdul Gafar Waliyani and the present Applicant and it was represented to him that they are running a Forex Trading Company. The informant was persuaded to invest amount, assuring astronomical returns. It was represented that an amount of Rs.5,000/- invested would become Rs.9,000/- within 17 days and Rs.30,000/- would become Rs.40,000/- within 18 days and so on. It was also represented to informant that if he brings investors to invest amount, he will be paid commission.

3. On 30 November 2020 the signature of the informant was obtained on a letter purported to be an appointment letter as an employee of the Forex Trading Company and an I-card was issued to him. It appears that upto January 2021 the investors were paid the assured returns after which there was a default claiming that the company has suffered losses in the Stock Market.

4. The complaint filed by Danish Nooraji shows that the investors were paid various amounts from his account and insofar as the present Applicant is concerned he is shown to have received an amount of Rs.56,000/-. On the basis of the complaint lodged by Danish Nooraji, an offence came to be registered and after investigation a charge-sheet is filed.

5. I have heard the learned counsel for the parties.

6. *Prima facie* at this stage there is no material to show that the Applicant was a partner in the Forex Trading Company which is not even shown to be registered entity. If at all according to the informant the Applicant along with Asif Abdul Gafar Waliyani were running the Forex Trading Company (Accused No.3 being the wife of Accused No.1) and were accepting deposits from Investors, it is not shown as to how an amount of Rs.56,000/- was paid to the present Applicant as mentioned in the FIR. I have also gone through the statement of the witnesses. Nine persons as recorded in the FIR and all of them speak about a demand being made by these investors with the informant. It is in this context that it is submitted on behalf of the Applicant that the informant was himself acting as an Agent of the said Forex Trading Company and except an amount of Rs.56,000/- which is shown to be credited in the account of the Applicant no other amount has come to the Applicant. It is pointed out that the statement of the witnesses refer to Accused No.1 Abdul Gafar Waliyani being the proprietor of the Forex Trading Company.

7. I have carefully considered the circumstances and the submissions made. *Prima facie* having regard to the fact that an amount of Rs.56,000/- has only been shown to be credited to the account of the Applicant and looking to the nature of the

allegations and further having regard to the fact that the investigation is complete and the charge-sheet is filed, the further detention of the Applicant behind bars may not be necessary. Hence following order.

ORDER

- (i) The applicant be released on bail on execution of a PR bond of Rs 25000/- with one or two solvent sureties in the like amount.
- (ii) The applicant shall not make any attempt to directly or indirectly to contact threaten or influence the prosecution witnesses and shall not otherwise tamper with the prosecution evidence.
- (iii) Bail bonds before the learned Special Judge.

C.V. BHADANG, J.