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

CRIMINAL APPLICATION (BA) NO. 349 OF 2022

Shekhar s/o Rambhau Kamlakar **Versus** State of Maharashtra, through P.S.O., P.S. Bajaj Nagar, Nagpur.

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's order	Court's or Judge's Order

Shri D.V. Chauhan, Advocate for the applicant.
Shri V.A.Thakre, A.P.P. for the non-applicant /State.

CORAM : ANIL S. KILOR, J.
DATED : 06/07/2022.

1. The applicant is seeking bail in connection with Crime No. 142/2021, registered with Police Station Bajaj Nagar, Nagpur, for the offences punishable under Sections 406, 409, 420 r/w Section 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

2. Shri D.V.Chauhan, learned counsel for the applicant submits that the applicant has been falsely implicated in the alleged offence. He submits that the applicant was in the employment with M/s Ebidd Financial Services Private Limited and his role in that Company was not more than an employee. However, in the complaint, it is claimed that the applicant was the Managing Director.

3. Shri D.V. Chavhan, learned counsel for the applicant submits that in fact, the applicant himself is an Investor and he has invested Lakhs of Rupees, on a promise

of Directors of the Company that, the applicant gets 20% interest on the amount invested by the applicant.

4. He further points out that, after realizing of the Directors of the Company are not acting in the interests of Investors, on 26/04/2021 i.e. much before the present FIR, the applicant, lodged Police Complaint pointing out the illegalities in the said company, however, no cognizance of the same was taken by the Police.

5. Shri D.V. Chavhan, learned counsel for the applicant has drawn attention of this Court to Company's Master Data, therefrom he points out that Sunil Kadiyala and Santosh Kadiyala, are the two Directors of the Company, and there is no document to show that the applicant was either Managing Director or Director of the Company. He submits that the applicant was working under the Dictate of Master and therefore, it cannot be said that the applicant is involved in the alleged offence.

6. Shri D.V. Chavhan, learned counsel for the applicant lastly argues that as the charge-sheet is filed, further custody of the applicant is not required and considering the fact that the applicant is in jail since last one year, he prays for grant of bail to the applicant.

7. On the other hand, learned APP strongly opposes the present application and submits that the statements of the witnesses recorded by the Investigation Officer, during the investigation, which support the case of

the prosecution and also show the role played by the applicant in the alleged offence.

8. Thus, he submits that considering the nature of the offence, this Court may not grant bail to the applicant and accordingly, he prays for rejection of the present application.

9. I have perused the Charge-sheet and the FIR.

10. It appears from the record to show that the applicant was earlier working in Tata Consultancy Services and after resigning on 04/12/2020, he joined "Ebidd Financial Services Private Limited".

11. There is no document to show that the applicant was the Managing Director in the said Company or the Director. The Company Master Data *prima-facie* shows that Sunil Kadiyala and Santosh Kadiyala are the two Directors of the said Company. The statements of witnesses, show that the applicant and his wife used to explain the schemes of the Company to the depositors.

12. Thus, the allegations are that because of promises given by the applicant and his wife, the Investors had invested the amount. However, *prima-facie* it appears that the applicant was doing his work, which was entrusted to him by the Company.

13. The charge-sheet further shows that the applicant himself is an Investor and he has invested the amount in Lakhs, on an assurance by the company that he will get 20% to 30% interest on such investment. Thus,

considering the material available on record, *prima-facie,* I am of the opinion that the applicant was working as an employee in the company and acted as per the dictates of his Master.

14. Furthermore, the applicant is in jail since last one year i.e. from 07/08/2021 and the charge-sheet has been filed on completion of the investigation. Thus, custody of the applicant is no more required.

15. Moreover, nothing has been pointed out from which, it can be said that if the applicant is released on bail, he may pressurize the prosecution witnesses or he will not be available for trial. In that view of the matter, I pass the following order :-

i) The application is **allowed.**

ii) It is directed that the applicant shall be released on bail in Crime No. 142/2021, registered with Police Station, Bajaj Nagar, Nagpur, for the offences punishable under Sections 406, 409, 420 read with Section 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, on his furnishing P.R. Bond of Rs.25,000/- with a solvent surety of like amount.

iii) The applicant shall attend the concerned Police Station as and when his presence is required.

iv) The applicant shall not leave the jurisdiction of the concerned Police station without permission of the Court.

The criminal application is accordingly **disposed of**.

[ANIL S. KILOR, J.]