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

CRIMINAL APPLICATION (BA) NO.759 OF 2021

Devendra Bhimrao Gajbhiye
Vs.
State of Maharashtra, Through Police Station Officer, Police Station, Ranapratap Nagar, District Nagpur

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. D. V. Chauhan, Advocate for applicant.
Mr. I. J. Damle, APP for non-applicant/State.

CORAM : AVINASH G. GHAROTE, J.
DATE : 11/04/2022

Heard Mr. Chauhan, learned counsel for the applicant and Mr. Damle, APP for non-applicant/State.

2. The applicant has been arraigned for the offence punishable under Sections 406, 409, 420, 120B read with Section 34 of the Indian Penal Code and Section 3 of Maharashtra Protection of Interest of Depositors (In Financial and Establishment) Act, 1999 and Section 45(s) of the Reserve Bank of India Act, 1935.

3. The applicant has been arrested on 20.11.2020. The charge-sheet has been filed on 14.02.2021 and supplementary charge-sheet filed on 02.09.2021.

4. Mr. Chauhan, learned counsel for the applicant submits that the applicant is neither the Director nor shareholder of Metro Vision Buildcon, which has engaged in multi level marketing schemes, in which, investors are claimed to have invested to the tune of more than Rs. 66 Crores and have been defrauded of their investments.

5. He further submits, that the role of the applicant, was in engaging the services of one Nikhil Ingle for the purpose of creating the Website of the company for which purpose, certain amounts have been transferred by the applicant to Nikhil Ingle. He does not dispute that in seminars organized by the said company, the applicant was present from time to time. It is however, contended that such presence, by itself is not indicative of the active involvement of the applicant in the schemes floated by Metro Vision Buildcon. He submits, even otherwise the charge-sheet has been filed on 14.02.2021 and also the supplementary charge-sheet has also been filed on 02.09.2021 and in case, any assistance or help of the applicant is required, he is willing to assist the prosecution in all manner for which, conditions can be imposed.

6. Mr. Damle, learned APP for non-applicant/State opposes the application and submits that since the investigation is still going on, the applicant

be not released on bail. He submits, that the applicant has received more than Rs.20 Lakhs in his account from the company Metro Vision Buildcon and was also instrumental in creating the MLM Website, of which, he was also the administrator, which could indicate involvement in the matter. It is further contended that since the presence of the applicant in the various seminars organized by the said company is also not disputed, that is another factor, which indicates his involvement, considering which, in case the applicant is released, there is every possibility that he may tamper with the evidence or try to influence the witnesses. It is further submitted that the Metro Vision Buildcon is not a company registered under the Companies Act, and what is registered, is Metro Vision Buildcon India Limited and not Metro Vision Buildcon, under which, the various MLM schemes including one styled under the name 'the real trade', was also being run, considering which, also the involvement of the applicant cannot be ruled out and therefore, the application needs to be rejected.

7. The certificate of incorporation, issued by the Registrar of Companies (ROC) (page 212) indicates that what is registered is Metro Vision Buildcon India Limited. There is no document on record to indicate that Metro Vision Buildcon, was registered with any Registrar of Companies (ROC), which would indicate that Metro Vision Buildcon, was an unregistered company under

which various MLM schemes were being run. The status, of the applicant, *vis-a-vis* Metro Vision Buildcon, is therefore, not clear, as there is nothing on record to demonstrate in which capacity he was connected. The charge-sheet does not include any letter of appointment of the applicant on any post in any capacity with Metro Vision Buildcon, nor does it indicate the extent of his involvement. It is however, not denied and is apparent from the material on record that the applicant was in some way involved with Metro Vision Buildcon in as much as, he has engaged the services of one Nikhil Ingle, for the purpose of designing the Website of the company of which admittedly the applicant was the administrator. The applicant, is also claimed to have received an amount of Rs.20,55,000/- from Metro Vision Buildcon from time to time, out of which, the funds have been expended by him for the creation of the Website. It has also come on record, that the account of the applicant with Axis Bank and Bank of Maharashtra has been seized, in which, there is approximately amount of Rs.30,00,000/- and so also amount of Rs.13,00,000/- has been deposited by the brother of the applicant Ranjit with the investigating agency, as against, an amount of Rs.58,24,374/- said to have been received by the applicant from Metro Vision Buildcon from time to time. Thus, an amount of Rs.43,00,000/- has already been secured. In reply by the State, in para 8, a statement has been made that the investigating agency has seized amount of Rs.48,61,139/- from the applicant and an amount of Rs.10,00,000/- more is to be recovered. The statements of Amar Malode, Swapnil Malode, Vasanta, Mangesh Bansod, Jitendra Gedam, though indicate the presence of the applicant in the various seminars organized by the said company, however, none of these statements indicate any specific role being attributed to the applicant. As the applicant has been arrested on 20.11.2020, the supplementary charge-sheet is also been filed on 02.09.2021, however, the mere participation of the applicant in the MLM schemes floated by the company and the nature of the role attributed to the applicant, so also the fact, that amount of more than Rs.48,00,000/- has already been seized from the applicant and so also the fact that the statement of Sukhyam Sharnagate, from whom it is alleged that the applicant has received an amount of more than Rs.25,00,000/- has yet not been recorded would indicate that there is no further requirement for the incarceration of the applicant to continue, considering which, in my considered opinion a case for bail is made out. Any apprehension, of the learned APP for non-applicant/State can be taken care of, by putting stringent conditions. Hence, the following order.

ORDER

(i) The application is allowed.

(ii) The applicant be released on bail in Crime No.251 of 2020 registered with Ranapratap Nagar Police Station District Nagpur, for the offence punishable under Sections 406, 409, 420, 120B read with Section 34 of the Indian Penal Code and Section 3 of Maharashtra Protection of Interest of Depositors (In Financial and Establishment) Act, 1999 and Section 45(s) of the Reserve Bank of India Act, 1935, on his executing P.R. bond in the sum of Rs.1,00,000/- (Rupees One Lakh) with two solvent sureties of the like amount.

(iii) The applicant shall not tamper with the prosecution evidence or try to directly or indirectly influence the witnesses in any manner whatsoever.

(iv) The applicant shall surrender his passport to the Investigation Officer and shall not leave the Country without prior permission of the learned Sessions Court.

(v) The applicant shall at all times keep in touch with the investigating agency and keep it informed about his residential address and his telephone/mobile number and so also to the learned Sessions Court and shall not change the same without prior intimation to the Investigating Officer and or the learned Sessions Court.

(vi) The applicant shall attend the Office of the investigating agency every Monday and Thursday between 12.00 noon to 4.00 p.m. and shall co-operate with further investigation, for a period of four months from today.

(vii) Any violation any of the above conditions shall result in cancellation of bail.

JUDGE

Sarkate