IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2068 OF 2022

Satish Shripath Tiwari ...Applicant
vs.
The State of Maharashtra ...Respondent

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Adv. Omkar Khanvilkar, Adv. Miloni Sanghvi, Adv. Sanket Tiwari i/by Omkar Khanvilkar Law Chambers - Advocate for the Applicant
Mr. S. R. Agarkar - APP for the Respondent-State
S. V. Pansare - Central Police Station, Ulhasnagar.

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CORAM : S. M. MODAK, J.

DATE : 01st AUGUST, 2023

P. C. :-

1. Heard learned Advocate for the Applicant-sole accused and learned APP. The investigating officer from the Central Police Station, Ulhasnagar is present.

2. He is charge-sheeted on the F.I.R. lodged by the one Sanjay Tukaram Jadhav, dated 18/06/2021. It is for the offence punishable under Sections 420 and 406 of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act.

3. The present Applicant is Chief Executive Officer of the

Company U2V Online Private Limited. Whereas one Mr. Pandey is Managing Director and there are few other persons who are described as advisers.

4. Apart from the present F.I.R. there is also F.I.R. registered with Mahatma Phule Police Station. The Applicant is granted bail by the Sessions Court, Kalyan as per order dated 06/09/2022. It is on page no. 16 of the today's compilation. There is one more offence pending with Aurangabad City Police Station. The Applicant is behind bar and there are also other accused persons. The *modus operandi* of the transaction is as follows:

a) The business of the Company is to carry out survey of the products on behalf of certain companies. For that purpose, they used to call feed back from the customers. For that purpose, they used to appoint certain persons and they used to give one ID by accepting Rs. 6,300/- and subsequently, it was raised to Rs. 8,000/-.

b) These persons used to take a feedback from the customers by asking them to fill the form containing the details about what is their feedback about product of the particular company.

c) When such representative used to fill one form, the Company used to pay them Rs. 400/-. Those representatives were assured that if they will pay Rs. 6,300/- for a month, they will get Rs. 16,000/-.

d) The first informant and other representatives believed on these representatives and they have invested lakhs of rupees in the Company.

5. Initially, the first informant and other representatives were paid handsomely. There were no issue when their subscription was only in thousands, but they have raised into lakhs they were not getting returns from the Company.

6. The first informant has invested Rs. 10,64,466/-. During investigation, it was disclosed that there are six persons apart from the first informant-Sanjay Jadhav.

7. Learned Advocate for the Applicant read over few of such statements. They are as follows:-

(i) Sangita Sanjay Jadhav, dated 26/06/2021 at page no. 144. She has invested Rs. 19,08,200/- in the name of the different family members and she got Rs. 8,43,734/-.

(ii) Statement of one Surendra Balurgi, dated 26/07/2021 at page no. 163. He has invested Rs. 28,00,000/- for the purpose of purchase of the IDs and whereas he owes Rs. 17,00,000/- from the Company.

(iii) There is statement of one Sunita Karmakar, dated

26/07/2021, at page no. 193. Wherein she has explained the nature of the business of the Company. She is an employee of the Company and she is also co-accused in Aurangabad case. (learned APP brought to my notice the said statement).

(iv) Statement of one Jagruti Mahesh Desai, dated 04/08/2021 at page no. 271, wherein she has invested Rs. 7,00,000/- and got nothing. Even though she cited as witness in this case, she has lodged the separate complaint with Mahatma Phule Police Station in respect of which the Applicant is granted bail as mentioned above.

8. In the compilation filed today on page no. 13, the details of the seven persons are mentioned and details of the amount invested and amount returned is mentioned. Contention is raised that to Surendra Balurgi, Company has paid in excess of the amount invested by him. The amount invested to the tune of Rs. 12 Lakh in cash is disputed on behalf of the Applicant.

9. Whereas learned APP submitted that the details of the repayment made to him mentioned in the table on page nos. 6, 7 and 8 of the today's compilation is on the basis of only bank payment and cash payment is not included.

10. <u>There is opposition to the bail for the following reasons:</u>-

(i) The Applicant has closed down his business and he has also left from the residential premises and went to the Uttar Pradesh and from there he was arrested.

(ii) During investigation, no amount was found in his bank account.

(iii) There are no immovable property belonging to the Applicant which can be attached so as to protect the interest of the investors.

11. This is innovative way of the luring investors to come forward to invest in the Company. Initially, an amount of contribution was less and initially, they were returned with good returns if they will fill the survey forms. So on this basis they were induced to invest in lakhs of rupees and they were not returned about those amounts.

12. Contention is raised that Managing Director Shri Pandey has resigned. So ultimately it is responsibility of the Company of which the present Applicant is Chief Executive Officer. Though investigating agency has tried to unearth immovable properties, they could not do so. The Applicant came to be arrested on 21/07/2021. He is behind bar from last two years. Trial has not proceeded. Merely by detaining the Applicant behind bar, the investors are not going to

get their amount. No one is sure when trial will be proceed. So subject to conditions of securing presence the Applicant can be granted bail. These observations are restricted to the facts mentioned before the Court and material shown to. In view of that I am inclined to grant bail. Hence Order:-

ORDER

(i) Bail application is allowed.

(ii) Applicant-Satish Shripath Tiwari arrested in connection with C.R. No. 167 of 2021 registered with Thane City Police Station for the offence punishable under Sections 420 and 406 of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, be released on bail on furnishing Personal bond and surety bond in sum of Rs. 50,000/-.

(iii) Applicant is directed to furnish surety who is having local residence in Thane Revenue District.

(iv) He is directed to give attendance to Central Police Station, Ulhas Nagar on first Monday of every month from 10.00 a.m. to 12.00 noon for two years.

(v) Applicant shall not threaten the prosecution witnesses.

13. It is made clear that the these are my prima facie

observations and the trial Court shall decide the case on its own merits without influenced by the observations made in this order.

14. Application is disposed of in the aforesaid terms.

15. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]