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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1610 OF 2020

1. Ganesh Rajan Bhavanam …
2. M. S. Ramesh @ Manimengrai Soud Rajan Ramesh ...Applicants

vs.

State of Maharashtra & Anr. ...Respondents

Mr. Rahul Mishra for the Applicant.
Mr. H. J. Dedhia APP for the Respondent-State.
Mr. Sanjay Sadigale, EOW Unit-1, Navi Mumbai.

CORAM : S. M. MODAK, J.

DATED : 26TH APRIL 2023

P. C. :

1. Heard learned Advocate for the Applicant and learned APP for the Respondent-State.

2. The Applicants are accused Nos.1 and 2 as per the charge-sheet filed by EOW of Navi Mumbai. Apart from these two Applicants, there are eight more accused named in the charge-sheet, some of them are arrested and some of them are absconding. The charge-sheet is filed for offence registered, being C.R. No.226 of 2019, with Turbhe MIDC police station through EOW Unit No.1, Crime Branch, Navi Mumbai, on 29th September 2019, on the complaint of Santosh

Baliram Shetye. He is ASI attached to EOW.

3. The sum and substance of the allegations is that present two Applicants are the Directors of A. M. Pictures Pvt. Ltd, whereas other charge sheeted accused are the Directors and employees of the said company. They have got a plan. They have invited investors to deposit Rs.3,000/- upto Rs.10,00,000/- and they were assured of return after 400 days to the tune of Rs.5,00,000/- or more. Furthermore, the investors were assured of more returns, if they bring more investors. The representatives of the company were also organising seminars. The charge-sheet mentions that the investors are of different types. Some are plain members, whereas others are active members. Totally, they have invested Rs.18,29,19,000/-. The number of customers is in thousands. The company is having bank account in different banks.

4. On completion of the investigation, the charge-sheet is filed under section 420, 409 read with 34 of IPC and under section 3, 4, 6 Prize Chit and Money Circulation Schemes (Banning) Act and section 66(D) of Information Technology Act and section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishment) Act, 1999.

5. Both these Applicants came to be arrested on 29th September 2019, since then they are behind bar. There are two affidavits filed on behalf of the prosecution. They are dated 12th August 2022 and 29th November 2022, at page 746 and 1073 respectively. The details of accounts, cash amount and the amount in bank are freezed and details of other properties seized are given in para 2A and 2B of the affidavit at page 1075. Its total comes to Rs.1,82,00,322/-.

6. Learned Advocate for the Applicants submitted that both these Applicants became the Directors few months prior to this offence. The relevant documents are at page 219. Applicant No.1-Rajan Ganesh and accused-Manimegalia Ramesh have joined on 31st July 2019 and 21st September 2019. Whereas the company is formed on 23rd May 2008. The certificate of incorporation is at page 221. It is submitted that earlier Directors have resigned.

7. Be that it may, once the Applicants have become Directors of the company they are certainly responsible. Learned APP submitted that in fact there are only 12 investors, who have come forward and their statements are recorded and amount of misappropriation is Rs.95,51,000/- only. The huge number of investors are disclosed from the data stored in memory of computer maintained by the

company, however, they have not come forward.

8. Learned Advocate for the Applicant submitted that his clients are not having any objection, if the amount is returned to those investors, once they come forward. I think it can be considered.

9. Considering the fact that these Applicants are behind bar since 2019, and they have shown readiness to pay amount, the bail can be considered. The investors are not before this Court. The Special Court seized of the matter can only deal with such request, at the same time the Applicants are at liberty to make necessary prayer for refund of remaining amount and the Special Court can deal with that as per merits.

10. In view of above, the following order is passed :

<u>O R D E R</u>

(a) The Applicant No.1-Ganesh Rajan Bhavanam and Applicant No.2-M. S. Ramesh @ Manimengrai Soud Rajan Ramesh be released on bail on furnishing personal bond and surety bond of Rs.25,000/- each in connection with C.R. No. No.226 of 2019, with Turbhe MIDC police station through EOW Unit No.1, Crime Branch, Navi Mumbai, on 29th September 2019, under sections 420, 409 read with 34 of IPC and under section

3, 4, 6 Prize Chit and Money Circulation Schemes (Banning) Act and section 66(D) of Information Technology Act and section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishment) Act, 1999.

(b) The Applicants shall not threaten the prosecution witnesses or allure them in any manner.

(c) The Applicants shall give attendance to the EOW Unit No.1, Crime Branch, Navi Mumbai on every first Friday from 10 am to 12 noon for one year.

(d) Needless to say, violating of the condition above will make the Applicants liable for cancellation of bail, after notice to the Applicants.

11. Application is disposed of accordingly.

12. These are my prima facie observations and the trial Court may not be influenced by that.

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

[S. M. MODAK, J.]