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

CRIMINAL APPLICATION (BA) NO.527/2023
Sachin Dhyaneshwar Dahake
..vs..
State of Mah., thr.PSO PS Beltarodi, District Nagpur

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

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Shri R.R.Vyas, Counsel & Shri S.N.Singh, Advocate for the Applicant.
Shri S.M.Kadukar, Additional Public Prosecutor for the State.

CORAM : URMILA JOSHI-PHALKE, J.
CLOSED ON : 06/12/2023
PRONOUNCED ON : 18/12/2023

1. By this application under Section 439 of the CrPC, the applicant seeks bail in connection with Crime No.482/2022 registered with the non-applicant/police station for offences punishable under Sections 420 and 406 of the Indian Penal Code read with Section 3 of the MPID Act, 1999.

2. The applicant is arrested on 14.1.2023 and since then he is in jail.

3. The accusations against the applicant are on the basis of report lodged by Rahul Narendra Raut wherein it is alleged that in the month of February 2022, his cousin brother Hitendra Samatkar shown him WhatsApp status of "Comsys Infotech" (the company) showing profit and, therefore, the complainant enquired with his brother how to get profit from the company and he was informed by his cousin brother that he invested amount and received interest on the same and, therefore, the complainant also invested amount with the company and used to trade in the company. It was assured that he would get double returns after six months. Initially, he received returns and subsequently he could not get the same. Even, he has not received his principle amount and thereby he was duped by the

applicant who is owner of the company.

4. Learned counsel Shri R.R.Vyas for the applicant, submitted that there is no dispute as far as investments by investors is concerned. It was trading business and investors invested their amounts at their own. He submitted that if chargesheet is perused, it shows that major role is played by cousin brother of the complainant. The applicant had no intention to deceive the complainant and others. Now, investigation is completed and chargesheet is filed and, therefore, further incarceration of the applicant is not required.

5. *Per contra*, learned Additional Public Prosecutor Shri S.M.Kadukar for the State, strongly opposed the application on the ground that during investigation, it revealed that 31 different investors invested huge amount with the company of the applicant. Initially, investors received commission and subsequently their principle amounts were also not returned back. The statement of different investors show that they have invested amount, however the applicant failed either to pay interest or benefits as agreed and prays for rejection of the application. He submitted that the applicant is proprietor of the company. As per allegations, the complainant invested amount as he was assured for good returns. The applicant has been instrumental in running the company and received amounts. Though this court has directed to deposit amounts to show his *bona fide*, the amount is not deposited. He placed reliance on the decision of the Honourable Apex Court in the case of **Y.S.Jagan Mohan Reddy vs. CBI (2013)7 SCC 439 and** submitted that considering accusations against the applicant, which are in nature of economic offence, the application deserves to be rejected.

6. After hearing learned counsel Shri R.R.Vyas for the applicant; learned Additional Public Prosecutor Shri S.M.Kadukar for the State, and perusing of investigating papers, it reveals that the complainant and other investors are induced to invest amounts on the promise of getting good returns and, therefore, they have invested

amounts. As per FIR, only once the complainant received benefit under the Scheme. The statement of the applicant is also recorded from which it reveals that the applicant induced investors to invest amounts and assured investors that they will get 20% commission. However, he could not pay same. Thus, it is apparent that on the inducement, from several investors, investments were accepted and no benefit was extended to the complainant.

7. Learned counsel Shri R.R.Vyas for the applicant, placed reliance on the decision of the Honourable Apex Court in the case of **Sanjay Chandra vs. Central Bureau of Investigation, reported in (2012)1 SCC 40** wherein, while highlighting evil of economic offences like money laundering, and its adverse impact on society and citizens, it has been observed that arrest infringes fundamental right to life. Detention or jail before being pronounced guilty of an offence should not become punishment without trial. While the prosecution may pertain to an economic offence, yet it may not be proper to equate these cases with those punishable with death, imprisonment for life, ten years or more like offences under the Narcotic Drugs and Psychotropic Substances Act, 1985.

8. Admittedly, at the stage of granting bail, an elaborate examination and detailed reasons touching merits of case, which may prejudice accused, should be avoided, but there is a need to indicate reasons why bail is not granted.

9. On the basis of allegations levelled against the applicant, it shows that he is the owner of the company and induced investors to invest amounts.

10. While considering bail applications, factors to be taken into consideration are; 1) the nature of accusations and severity of the punishment; 2) reasonable apprehension of tampering with witnesses; 3) reasonable possibility of securing presence of accused, and 4) character, behaviour and standard of accused.

11. The Honourable Apex Court in the case of **Y.S.Jagan Mohan Reddy vs. CBI** *supra,* as placed by learned Additional Public Prosecutor Shri S.M.Kadukar for the State, laid down following parameters while dealing with the offence involving the economic offence of huge magnitude:

> "i) economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country, and
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> ii) while granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interest of the public/State and other similar considerations."

12. Considering that the applicant is involved in the crime; 31 investors are duped by the applicant by accepting their investments, wherein hard earned money of the investors is at stake, and role of the applicant is clearly exposed, the application of the applicant deserves to be rejected and the same is **rejected**.

The application stands **disposed** of.

(**URMILA JOSHI-PHALKE, J.**)

!! BrWankhede !!