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

CRIMINAL APPLICATION (ABA) NO.686 OF 2023

(Vivek @ Swapnil Madhukarrao Ghormade Vs. State of Maharashtra thr. its PSO PS Morshi, Dist. Amravati)

Office Notes, Office Memoramda of Coram, appearances, Court's orders of directions and Registrar's Orders.	Court's or Judge's orders.

Mr. P. V. Navlani, Advocate for Applicant.
Mrs. S. S. Dhote, APP for Respondent/State.

CORAM: URMILA JOSHI PHALKE, J.
DATE: 29th NOVEMBER, 2023.

Present application is for grant of pre-arrest bail in connection with Crime No.451/2023 registered with Police Station Morshi, District Amravati for the offence punishable under sections 406 and 420 of the Indian Penal Code.

2. The learned counsel Mr. Navlani submitted that the applicant is apprehending arrest at the hands of police on 08.09.2023 informant namely Uddhao Vindrao Morey lodged the report against the applicant and other co-accused that the present applicant is an employee of Fund Value Management (F.V.M.) advisory company who has induced the informant for investment in the aforesaid company. It is further alleged that the present applicant assured the complainant that if he invests the money in the said company he would get interest @ 3% p.m. on the deposited amount. On the basis of said assurance the informant has invested the amount of Rs.5,30,000/- he has

received the 3% of the interest till the end of 2020. Thereafter, as he has not received the 3% interest on the invested amount he approached to the police station and lodged the report.

3. Mr. Navlani, the learned counsel for the applicant submitted that as per the policy of the company who ever invest the amount becomes the member of the company and company issued them the offer letter he pointed out that said offer letter is issued to the applicant as well as to the informant also. He placed on record both the offer letters which shows that not only the present applicant but the informant is also shown as employee of the said investment company. He further submitted that the amount was directly deposited in the account of the company and whatever amount is deposited by the complainant in the account of the present applicant is transferred to the account of the company. He placed on record the statement which shows that the total amount of Rs.5,30,000/- is invested in the name of the informant. Thus nothing is kept by the present applicant along with the company therefore, the question of recovery of the amount does not arise. As far as the employment part is concerned he is ready to abide by all the conditions imposed by him and prays for grant of anticipatory bail in the event of arrest.

4. Said application is strongly opposed by the learned APP on the ground that the huge amount is invested by the

complainant as well as other investors on the assurance of the present applicant, his custodial interrogation is required and amount is to be recovered from him. If applicant is released on anticipatory bail he will tamper with the prosecution witness and will not be available for the trial.

5. Having heard the learned counsel for the applicant perused investigation papers as per the allegation on the assurance of the present applicant the informant has invested the amount. The recital of the FIR itself shows that the prior to 2021 he has received the interest on the invested amount and subsequent thereto he has not received the interest and therefore, he approached to the police. During investigation the investigating officer has recorded the various statements which shows that various investors have invested the amount and they have received the benefit for some period and subsequently the benefits are not given to the investors and therefore, he approached to the police station. The documents which are placed on record shows that not only the applicant but the complainant is also shown to be the employee of the investment company, as the policy of the company shows that whoever invest the money became employee of the said company. From the investigation papers it further reveals that the present applicant and his family members have also invested the money and their money is also lying with the said investment company. It is submitted by the learned counsel for the applicant that the applicant is also a victim

as his money is also lying with the said investment company as he has not received the interest from the said company. As far as the contention of the prosecution is concerned that the custodial interrogation of the present applicant is required as amount is to be recovered from him is not sustainable as the statement of the amount of the invested amount shows that the entire amount of Rs.5,30,000/- is lying with the company and not with present applicant. As far as the interrogation part is concerned the applicant can be protected by granting protection by imposing some condition. In view of that the application deserves to be allowed. Accordingly, I proceed to pass following order:

[i] In the event of arrest in Crime No.451/2023 registered with Police Station Morshi, District Amravati for the offence punishable under Sections 406 and 420 of the Indian Penal Code the applicant be released on anticipatory bail on furnishing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

[ii] The applicant shall attend the concerned police station as and when required for the investigation purpose.

[iii] The applicant shall furnish his mobile number and address with his address proof.

He shall also furnish the names of his two nearest relatives and address with their address proof.

[iv] The applicant shall not induce threat or tamper any prosecution evidence by contacting any person who are connected with the said crime.

6. The application is disposed of.

<u>JUDGE</u>

NSN