* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: July 12, 2023
% *Pronounced on: July 17, 2023*

\+ **BAIL APPLN. 1718/2023**

MUKESH BHARDWAJ ..... **Applicant**
Through: Mr. Pritish Sabharwal, Advocate

Versus

THE STATE OF NCT OF DELHI ..... **Respondent**
Through: Mr Aashneet Singh, APP for the State with Insp. Sanjay Kumar, PS: EOW.

CORAM:
HON'BLE MR. JUSTICE SAURABH BANERJEE

JUDGMENT

1. This is an application under Section 439 of the Code of Criminal Procedure, (Cr.P.C.) seeking grant of regular bail filed by the accused/applicant in FIR No.136/2012 under Sections 406/420/120-B/174-A of the Indian Penal Code, 1860 (IPC) registered at PS Economic Offences Wing (EOW).

2. As per record, the FIR was registered on 30.09.2012 on the basis of a complaint under Section 156(3) Cr.P.C for the alleged offences committed by one financial company by the name of M/s. Money Bhandar, whereby since May 2009, it was defrauding the public by collecting funds, on the pretext of money back schemes with lucrative interest, after a fixed period of deposit. However, at the time of returning such money, the office of the company was shut down and no such returns were made to the customers. It was alleged that around Rs.32 Crores had been collected from around 10,500 investors. It is also alleged therein that the said company, M/s.

Money Bhandar introduced another defrauding scheme whereby it had assured the customers of refunding the amounts, provided they joined the new scheme of deposit of money with a new company M/s B. P. Jewellers Pvt. Ltd. Thereafter, the said company issued cheques to the customers, however most of them were dishonoured due to insufficiency of funds.

3. Though the applicant was not named in the said FIR, during the course of investigation, he was arrested on 06.03.2021, on the ground that not only is he one of the authorised signatories of the bank account of M/s B.P. Jewellers Pvt. Ltd. in which the deposits from the customers were received, but he is also one of the two directors of the said company M/s Money Bhandar. Thereafter, he was released on interim bail vide order dated 19.05.2021 in terms of the High Powered Committee (HPC) Guidelines till 07.04.2023, on which date he surrendered.

4. Learned counsel for the applicant submits that the applicant was a non-executive Director of M/s B.P. Jewellers Pvt. Ltd and that too for a short period of 112 days, having merely 10 equity shares in the said company. He submits that as M/s. Money Bhandar and M/s. B.P. Jewellers Pvt. Ltd. are two distinct entities, the applicant had nothing to do with M/s Money Bhandar and there is no role attributable to him. He also submits that the applicant had tendered his resignation on 25.08.2010, i.e., before registration of the present FIR and had no transactions with the complainants. He also submits that the prosecution is wrongly treating both M/s. Money Bhandar and M/s. B.P. Jewellers Pvt. Ltd. as the same entity. It is also submitted that the name of M/s B.P. Jewellers Pvt. Ltd. has been recently, wrongly, included in the charge-sheet, despite that it has nothing to do with M/s. Money Bhandar. Further, relying upon *Section 149(12)* of the Companies Act, 2013, he submits that the applicant cannot be held liable as

he was never involved in the transactions and that they were being carried out without his knowledge, consent or connivance.

5. Notice was issued and the Status Report was filed and the Nominal Roll of the applicant was also called for. The Nominal Roll filed thereafter, shows that there are no other cases pending against the applicant and there is no previous involvement. As per Nominal Roll, his overall jail conduct is satisfactory.

6. Learned APP for the respondent /State relying upon the Status Report has opposed the grant of bail stating that the total alleged money misappropriated by the accused is to the tune of approximately Rs.8.5 crores and that the applicant is one of the Authorized Signatories of the bank account of M/s B.P. Jewellers Pvt. Ltd. and that money was received in the said account from various investors by way of cash and through cheques. It is stated that the applicant is one of the two Directors of M/s B.P. Jewellers Pvt. Ltd./M/s Money Bhandar and there are no details of his resignation in the records of the Registrar of Companies (ROC). It is also stated that initially M/s. Money Bhandar was the proprietorship firm run by one Mr. Kapil Dev Pasricha, and later on, he formed M/s B.P. Jewellers Pvt. Ltd. with the applicant. Further, as per the report of RBI, M/s. Money Bhandar (M/s. B.P. Jewellers Pvt. Ltd.) is/ was not registered as a Non-Banking Financial Company (NBFC) and was not authorized to accept public deposits. Learned APP for the respondent/State submitted that there is another FIR registered against the applicant in Bareilly (U.P.). It is also stated that during the investigation in the present FIR, Non Bailable Warrants had to be issued against the applicant and he was also declared as a Proclaimed Offender on 30.11.2019.

7. This Court, after hearing the learned counsel for the parties and perusing the documents while considering the factual matrix involved, finds that the applicant has not been named in the FIR. The role of the applicant is not clear, as there are no transactions involving him which have been brought on record. Further, the alleged nexus between M/s Money Bhandar and M/s B.P. Jewellers Pvt. Ltd. is yet to be established, which, no doubt, being a matter of trial, is expected to take time. Besides, charge sheet against him has already been filed but charges are yet to be framed and in all likelihood, the trial in the matter is going to take long, during which there is no occasion for the applicant to keep languishing behind bars.

8. In the considered opinion of this Court, keeping the applicant behind bars for the prolonged period of trial would serve no purpose especially in view of the aforesaid and as he is yet to be proven guilty. The investigation and examination of witnesses are underway. Relevantly, the applicant has a clean and unblemished/ satisfactory record, while being inside the jail.

9. For the reasons stated above, this Court deems it a proper case for granting the applicant regular bail in FIR No.136/2012 under Sections 406/420/120-B/174-A IPC registered at PS EOW, on his furnishing a personal bond in the sum of Rs.1,50,000/- (Rupees one lakh and fifty thousand only) along with two sureties of the like amount by family member/ friend having no criminal case pending against them, subject to the satisfaction of the learned Trial Court, and further subject to the following conditions:

i. Applicant shall not leave the National Capital Territory of Delhi without prior permission of this Court and shall *ordinarily* reside at the address as per prison records. If he wishes to change his residential address, he shall intimate about the same to the Jail Superintendent by way of an affidavit.

ii. Applicant shall surrender his passport to the Investigating Officer, within three days. If he does not possess the same, he shall file an affidavit before the I.O. to that effect within the stipulated time.

iii. Applicant shall appear before the court as and when the matter is taken up for hearing.

iv. Applicant shall join investigation as and when called by the IO concerned. He shall not obstruct or hamper with the police investigation and shall not play mischief with the evidence collected or yet to be collected by the Police.

v. Applicant shall provide all his mobile numbers to the I.O. concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the I.O. concerned. The mobile location be kept on at all times.

vi. Applicant shall report to the I.O. at P.S. Kalkaji once every month in the first week of the month unless leave of every such absence is obtained from the learned Trial Court.

vii. Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the victim or any member of the victim's family or tamper with the evidence of the case or try to dissuade them from disclosing such facts to the Court or to any police officials.

10. It is clarified that the observations made herein are prima facie in nature and only for the purposes of deciding the present application for

grant of bail and thus need not be construed as an expression on merits of the matter.

11. Copy of the present order be sent to the concerned Jail Superintendent for onward information and necessary compliance thereof.

12. Accordingly, the present application for bail is disposed of in the above terms.

SAURABH BANERJEE, J.

JULY 17, 2023
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