2023:DHC:6943

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision: 15.09.2023**

\+ **BAIL APPLN. 3085/2023**

ASLAM SAYYED ..... Petitioner

Through: Mr. Prashant Mehta and Mr. Charanpreet Singh, Advocates

versus

STATE (NCT OF DELHI) ..... Respondent

Through: Mr. Manoj Pant, APP for the State with Inspector Jitendra Malik, P.S. Special Cell

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.*(ORAL)*

CRL.M.A. 24913-14/2023 (exemption)

1. Allowed, subject to all just exceptions.

2. Applications stand disposed of.

BAIL APPLN. 3085/2023

3. The instant application under Section 438 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of applicant seeking grant of anticipatory bail in FIR bearing no. 0379/2022 registered at Special Cell, Delhi for offence punishable under Sections 419/420/34 of Indian Penal Code, 1860 ('IPC') and

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Section 66 of Information Technology Act, 2000 ('IT Act).

4. Issue notice. Mr. Manoj Pant, learned APP accepts notice on behalf of the State.

5. Briefly stated, the facts of the present case are that the complainant Umesh Chaturvedi alongwith some other persons had filed a complaint on 30.06.2022 alleging that S.M. Global firm, which works in the field of collecting money from the people for the purpose of investment in the market, had allured the complainant through its MLM Projects into making investments on the pretext of providing good returns (approx. 200 % p.a.) and had assured 5-20% monthly return on investments alongwith other returns and benefits. As alleged, according to the scheme, at every 15/25/05th day of the month, returns/pay out were to be credited to the investors accounts who had invested in the scheme. Thereafter, S.M. Global and its officials had tried to influence people to invest in their crypto-currency MetaPex on 21.12.2021 on the pretext that the same would yield high returns and they had informed the investors about some of their websites. It was alleged that the complainant and other investors had kept checking the websites for some time, trying to convert their investment in bitcoins, but the website always showed some error and after about 2-3 months, the website did not show any data related to the investment or crypto currency. It was alleged that from 25.12.2021, the complainants had not received any pay outs or even their principal invested amounts, and the officials of S.M. Global had kept on giving assurances to return the money to the investors. Upon inquiring, the investors had got to know that Milind

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Balaso Gadave, the person who had introduced himself as Chief Managing Director of S.M. Global, had fled the country and gone to Dubai after duping people of their hard earned money. As alleged, the complainant and other investors had been lured in investing about Rs.1.47 crores with S.K. Global during the period between September, 2021 to January, 2022, however, they had not received any returns as promised on their investments. On these allegations, the present FIR was registered.

6. Learned counsel for present accused/applicant states that the applicant has been falsely implicated in the present case despite he being not named in the FIR and there being no allegations against him. It is submitted that the applicant was initially granted interim protection by the learned ASJ and he had joined and fully cooperated in the investigation and had provided all the relevant documents as requested by the IO. It is argued that the applicant is merely a Director of M/s. GAK Exchange Pvt. Ltd., a company which only exchanged the currency from INR to UAE Dirham for the main accused SM Global in course of its money exchange business without having any knowledge that the source of funds were from duping and cheating the investors as alleged by the prosecution. It is stated that company was doing its business as per valid license and norms. It is stated that for the transactions which took place between M/s Gak Exchange Services Pvt. Ltd. and SM Global, proper invoices were issued and the said transactions are also corroborated by the sales register and statements of accounts. It is therefore argued that present application be allowed.

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7. Learned APP for the State, on the other hand, argues that there are serious allegations against the applicant and his role had come up during investigation when it was discovered that a sum of Rs. 98 lakhs was transferred in the account of M/s. GAK Exchange Pvt. Ltd. by SM Global and the applicant is the main director and holds about 90% shares of the said company. It is also argued that during further investigation, it was discovered from the bank account details that there were huge withdrawal of cash of Rs. 63 crores from the bank account of M/s Gak Exchange Services Pvt. Ltd. and the applicant during investigation was not able to give any satisfactory reply with respect to the same. It is also stated that as per the balance sheet of the year 2021-2022, sales revenue of approximately Rs.3300 crores has been shown, however, there is profit of only Rs.4 lakhs and the GST returns produced by the present applicant are nowhere comparable to their sales revenue. It is further stated by learned APP, on instructions from IO, that it is a multiple victim case and as on date, 43 victim/investors have come forward to lodge their complaint. It is stated that the custodial interrogation of the present applicant is required to ascertain the true facts and the conduct of business of M/s Gak Exchange Services Pvt. Ltd. and therefore, the present application be dismissed.

8. I have heard arguments advanced on behalf of both the parties and perused the material on record.

9. During investigation, it was revealed that in the year 2021, a firm namely S.M. Global was launched by Milind Balaso Gadave, who had promised high returns in a short period of time on the

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investment made by general public and the firm had organized several seminars and media campaigns to induce people. However, the accused persons had duped the investors of their money. It was found during investigation that the accused persons had closed the office of S.M. Global which was located in Sangli, Maharashtra in the year 2021 and had shifted it to Dubai in February, 2022 to evade the process of law and it was also discovered that huge amount of money had been withdrawn or siphoned off to other accounts by the accused persons. During investigation, it was found that co-accused Milind Balaso Gadave has been arrested in another FIR and was lodged in Yerwada Jail, Pune, Maharashtra. During the course of arguments, learned APP for the state on instructions from IO had submitted that the co-accused Milind was involved in nine other cases of similar nature. This Court's attention was also drawn towards the fact that multiple victims have approached the investigating agency, who have been duped of their money by SM Global.

10. As per prosecution, when the statements of bank accounts of S.M. Global were analysed, it was revealed that an amount of Rs.98 lakhs was transferred in the bank account maintained by M/s Gak Exchange Services Pvt. Ltd. and it was found that the said account was opened by two persons namely Shravan Golpalli and the present accused/applicant i.e. Aslam Sayyad. During investigation, when the documents such as sales ledger, balance sheet, GST returns, etc. of M/s Gak Exchange Services Pvt. Ltd. were examined, it was discovered that there were cash withdrawal totaling to around Rs.63 crores in a period of less than two months and it was also found that

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as per the balance sheet, sales revenue as recorded stood at Rs. 3,300 crores against a profit of only Rs. 4 lakh and thus there were discrepancies between the financial records of the company, and GST paid by it.

11. As per status report handed over to this Court by learned APP for the State, though the applicant had initially joined investigation pursuant to grant of interim protection by learned ASJ, he had remained evasive and was unable to explain such transactions and had not submitted documents regarding purchase, company wise details of business. It is further stated that despite being the holder of 90% shares of the company, the applicant had claimed that he had no concern with the financial transactions of his company including the money received from SM Global.

12. In the given set of facts and circumstances, this Court notes that the investigation of the case is at initial stages, and the material collected so far indicates financial irregularities in the conduct of business transactions of M/s Gak Exchange Services Pvt. Ltd., and the custodial interrogation of the applicant may be required to ascertain the details of transactions since the applicant is suspected to be engaged in carrying out illegal transactions in the garb of foreign exchange business. About 43 victims have already approached police in this case.

13. Considering the aforesaid facts and circumstances, this Court finds no reason to grant anticipatory bail to the accused/applicant.

14. Accordingly, the present bail application stands dismissed.

15. It is however clarified that nothing expressed hereinabove shall

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tantamount to an expression of opinion on merits of the case.

16. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

SEPTEMBER 15, 2023/ns

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