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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved On: 28th November, 2023
Pronounced On: 11th December, 2023

\+ BAIL APPLN. 3599/2023 & CRL.M.(BAIL) 1502/2023, CRL.M.A. 29253/2023 (Exemption)

MANU PRASHANT WIG ..... Petitioner

Through: Mr. Salman Khurshid, Senior Advocate with Ms. Sommya Chaturvedi and Ms. Sonika Choudhary, Advocates.

versus

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

Through: Ms. Priyanka Dalal, APP for State with Insp. Chetan Mandia, P.S. EOW.
Mr. Jitender Singh and Mr. M.K. Saroja,(through VC), Mr. Arvind Kumar, Advocates for the complainants.

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.

1. The present application under Section 439 of the Code of Criminal Procedure, 1973 ('CrPC') seeks regular bail in case FIR No. 0028/2020, under Sections 409/420/120B of the IPC and Sections 3/4/6 of the PCMC Act, registered at Police Station Economic Offences Wing ('EOW').

2. The case of the prosecution, as per status report dated 22.11.2023, authored by Mr. Ramesh Mumar Narang, Assistant Commissioner of Police, Section-VI/EOW is as under:

> "1. That the above said case vide FIR No. 2812020 Dt. 17.02.2020 Uls 420/406/120B JPC PS-EOW was registered on the complaints of Lakshay Kumar & other victims. Lakshay Kumar & other victims have filed complaint against Mis Bluefox Motion Pi ctures Pvt. Ltd. & its Directors namely Manu Prashant Wig, Harjeet Singh, Pankaj Goyal and Priyesh Kumar Sinha. They have reported that Lhe accllsed company MJs Bluefox Motion Pictures Pvt. Ltd. through its officials/directors had induced the public at large including themselves to invest in its investment schemes assuring exceptionally high returns 011 invested amount. The company used to organize luxurious promotional events all over the country wherein its investment schemes were being promoted di shonestly & fraudulently inducing the public at large to invest in their schemes. Manu Prashant Wig, Director of MIs Blue Fox Motion Pictures Pvt. Ltd. & other officials had informed them that the accused company is in the business of' making movies, TV Serials & other entertainment events. Manu Prashant Wig and other Directors have told that huge profits are being earned by the company in the business of film production and various states are offering incentives, faci lities to the film industry to make films in their states. TIle company was operating on the Multi Level Marketing model. The office of the accused company was situated at B-101, 1 SI Floor, Statesman House, 148, Barakhamba Road, New Delhi .
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> 2. That on being induced, the complainant Lakshay Kumar invested Rs. 2 Lacs in cash on 22.09.2017. Against this investment of Rs. 2 Lacs, he had to get Rs. 5 Lacs as return on his investments after a period of 12 months. In the similar manner, 25 more victims who had also invested money in the fraudulent schemes of accused company in the range of Rs. 10,0001- to Rs. 2,00,0001-, have also approached EOW. So far 200 victims have filed their complaints in EOW against the above said accused Company and its Directors as well as officials/concerned. Initially, the accused company returned some money but thereafter, the accused direclOrs/o ff'i cials including present accused applicant, Director of Mis Blue Fox Motion Pictures Pvl. Ltd disappeared, abandoning the company office after collecting money from the general public.

3. That the accused company had floated following investment schemes:

Package (Amount in Rs.)	Holding Period	Term of Investment	Return Amount in Rs.
10000	30 Days	10	15000
25000	30 Days	10	38750
50000	30 Days	10	80000
100000	60 Days	10	180000
200000	60 Days	10	500000
Cg100000	11 MONTHS	11	Profit + Captal

During the course of investigation, facts revealed that the accused persons namely Manu Prashant Wig, Harjcet Singh, Pankaj Goyal, Priyesh Kumar Sinha & others had collected money from the victims in their companies Mis Bluefox Motion Pictures Pvt. Ltd. and Mis BFM Pictures LLP in different schemes offering high rate of returns. After sometime, the accused persons also induced the victims to invest in crypto coin namely BFX Coin launched by them and collected money from the victims on accOlmt of investment in their Clypto coin."

3. Learned Senior Counsel appearing on behalf of the applicant submitted that as per the FIR, the total amount due to the complainant was Rs. 13 lakhs 90 thousand, which has been repaid by the applicant. However, during investigation, several other complaints were clubbed with the said FIR, without giving the details of the money invested by the complainants therein. It was further submitted that the applicant is the Director of M/s Blue Fox Motion Pictures Pvt. Ltd., which has produced 12 movies and some movies were pending production, which could not be finalised due to the COVID-19 pandemic. It was further submitted that in paragraph 25 of the status report, it is mentioned that the applicant received the total cheated amount of Rs.

3,87,07,360/- however, in paragraph 11 of the said report, it is stated that an amount of Rs. 3,67,86,455.86/- was frozen which was identified to have been diverted by the accused companies. It was submitted that in the said status report, there is a discrepancy with respect to the amount and it is stated that the cheated amount is approximately Rs. 8,00,00,000/-. It was further submitted that in response to notice issued by the Investigating Officer, the present applicant had given a detailed reply on 05.11.2022 giving full disclosure of the outflow of the money from the accused companies. It was further submitted that co-accused Priyesh Sinha has been granted bail by this Court *vide* order dated 01.09.2023 passed in BAIL APPLN. 2309/2023. It was submitted that the investigation in the present case is complete and the chargesheet stands filed and therefore the present applicant be released on bail.

4. *Per contra*, learned APP for the State, assisted by learned counsel for the complainant, submitted that during the course of investigation, it has come on record that more than 200 victims were involved in the present scam and as per the calculation of the Investigating Officer, the total amount of nearing Rs. 8,00,00,000/- is involved in the present FIR. It was further submitted that the present applicant is the main Director and was the brain behind the entire scam.

5. Attention of this Court was drawn to the statement of one Manoj Kumar, who stated that he had attended the seminar of M/s Blue Fox Motion Picture Pvt. Ltd. in November-December, 2017 held at Radisson Blu, Dwarka where the present applicant was one of the speakers and had spoken about BFX cryptocurrency coin and had stated that a lot of money can be earned by investing in it. Induced by the applicant, the said Manoj Kumar also invested Rs. 2,10,000/- in BFX coins. It was submitted that the present applicant is the main beneficiary of the cheated amount and during investigation, it was revealed that an amount of Rs. 2,69,07,360/- was received by the present applicant in his personal bank account. It was further pointed out that an amount of Rs. 50,00,000/- was deposited in the account of the applicant's wife. Similarly, it was stated that the family members of the applicant are running a petrol pump in the name of 'PD Wig' which is a dealership of Indian Oil Corporation Ltd and several payments on behalf of the said dealership were made by the accused company, i.e., M/s Blue Fox Motion Pictures Pvt. Ltd. to the Indian Oil Corporation. It was further submitted that as per the reply received from the Reserve Bank of India ('RBI') and Securities Exchange Board of India ('SEBI'), the accused companies M/s Blue Fox Motion Pictures Pvt. Ltd. and M/s BFM Pictures LLP were not authorized to collect money from investors and raise deposits from the general public. It was further pointed out that the relevant period in the present case is prior to the onset of the COVID-19 pandemic, i.e., 2017-18. Finally, it was submitted that the present applicant never cooperated with the investigation and his conduct shows that he is a flight risk.

6. Attention of this Court was drawn to order dated 04.01.2023, passed by learned Chief Metropolitan Magistrate, Patiala House Courts, wherein it was recorded as under:

> "As per record, vide order dated 19.04.2022 accused/applicant was admitted to interim bail for settling the matter with the complainant/victim. In said interim bail order it is mentioned that at the time of grant of interim bail, there were 25 victims who had approached

the IO but since applicant/accused showed his intention to return the cheated amount to all the complainants/victims, therefore, he was granted interim bail for 30 days, which was extended from time to time and he paid a total sum of Rs. 10 lakhs to about 12 victims. **On 30.07.2022, applicant/accused left the Court premises without any intimation/permission from the Court when he had to surrender before the Court on conclusion of his interim bail. Accordingly, NBWs were issued against him, which remained unexecuted.** However, Ld. Sessions Court vide order dated 22.08.2022 had stayed order dated 30.07.2022 till 19.09.2022. Thereafter, vide order dated 19.09.2022 Sessions Court observed that revision preferred against order dated 30.07.2022 was not maintainable, however, protection was granted to the applicant/accused by staying execution of warrants till 20.09.2022 and also directed applicant/accused to move appropriate application for cancellation of NBWs which was to be considered as per law. On 20.09.2022 accused did not appear before the Court, although application for cancellation of NBWs was filed but due to detail reasons mentioned in order dated 20.09.2022 regarding medical /prescription placed by the accused before the Court, application for cancellation of NBWs was dismissed and fresh NBWs were issued against the applicant/ accused. **In Crl. M.C.No.5150/2022 preferred by applicant/accused before Hon'ble High Court of Delhi, interim protection was granted to him till 11.11.2022, however, vide order dated 11.11.2022, said interim protection was vacated. On 22.11.2022 accused was not present before the Court and detailed order was passed after which NBWs were again issued against him.** Thereafter, vide order dated 30.11.2022 in Crl. M.C. No.3130/ 2022, directions were given by Hon'ble High Court of Delhi for deciding bail application of accused on merits by 10.01.2023 and further directions were given that no coercive action shall be taken against the applicant/accused till the time bail application is decided.

Considering the overall facts and circumstances of . the case, nature, gravity and manner of commission of offence and the alleged role of the accused Manu Prashant Wig and as per reply of the IO, accused is not cooperating in the investigation and not producing balance sheets and books of accounts of the companies and that he is not residing at his given address of Kanpur since long time and that he is a habitual offender, no ground for grant of bail is made out. Accordingly, bail application of accused Manu Prashant Wig is dismissed."

(emphasis supplied)

7. Subsequently, the applicant filed a bail application before the learned Additional Sessions Judge and *vide* order dated 13.01.2023, he was granted interim protection from 13.01.2023 to 27.01.2023. *Vide* order dated 27.01.2023, the bail application of the present applicant was dismissed by the learned ASJ, noting as under:

> "Even today, accused did not appear before the Court, when inquired in this regard he was reported to have flown away. Having considered the conduct of the accused as well as the serious allegations including the fact that the company of the accused/applicant has been receiving money from the different investors whereas no documents, books of accounts of such investment/schemes floated by the companies of the accused have been kept. Even it came in the investigation that computer software in which the details/accounts from 2016 February to 2020 have also been deleted on account of alleged ransom ware / attack. As such huge amout of money has been taken from different innocent people without keeping the proper accounts of the same.
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> Taking into consideration the above said facts and the fact that investigation is still going on, no cause is made out for grant of bail. Bail application is accordingly dismissed."

8. Subsequently, non-bailable warrants were issued by the learned CMM *vide* order dated 30.01.2023, returnable for 08.02.2023. The applicant could not be traced as he was not found at his available address. It was stated that he concealed himself at unknown places and showed himself as being disowned from the property of his father. Subsequently, the learned CMM issued fresh non-bailable warrants returnable for 03.03.2023. Finally, the applicant was traced with the help of technical surveillance and was arrested from Noida on 24.02.2023.

9. In rejoinder, learned Senior Counsel on behalf of the applicant submitted that there has been no investigation with regard to cryptocurrency. It was further submitted that the detailed reply given by the present applicant dated 05.11.2022 is still under investigation. With regard to the previous involvements of the applicants enumerated in the FIR, it was submitted that the said FIRs are based on similar allegations with respect to different investors in other states and out of 08 cases mentioned therein, the applicant is on bail in 05 cases. It was further argued that the non-appearance of the applicant was on account of the fact that his mother was undergoing chemotherapy and poor legal advice.

10. Heard learned counsel appearing on behalf of the parties and perused the record.

11. The contention of learned Senior Counsel for the applicant is that investments made in M/s Blue Fox Motion Pictures Pvt. Ltd. of which the present applicant was a Director could not be returned back on account of the COVID-19 Pandemic. However, the same is not tenable in view of the fact that the allegations are with respect to pre-COVID period. Learned Senior Counsel further contended that there are discrepancies in the total cheated amount at various places in the status report. A perusal of the record reflects that the Investigating Officer has placed on record, a detailed chart showing that the amount invested is approximately 8 crores. It has further come on record that some of the investors have made categorical allegations against the present applicant, stating that he induced them to invest in the aforesaid company. Similarly, it has also come on record that the present applicant has benefitted personally, inasmuch as a sum of Rs. 2,69,07,360/- was received in his personal amount and similarly, payments were made on behalf of the petrol pump by the name of 'M/s P.D. Vig' (owned by applicant's family) to the Indian Oil Corporation Ltd. Apart from that, the contention of learned

APP for the State that the present applicant is a flight risk, appears to be borne out from the facts placed on record. It is on record that the present applicant, after being granted interim protection, did not appear before the learned ASJ and while dismissing his bail application *vide* order dated 27.01.2023, the learned ASJ recorded that the applicant was reported to have flown away. The conduct of the present applicant, during the pendency of the bail application, while having interim protection, has been noted in detail in preceding paragraphs and the same are not being repeated here for the sake of brevity.

12. In **P. Chidambaram v. Central Bureau of Investigation, (2020) 13 SCC 337**, the Hon'ble Supreme held as under:

> "**21.** The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail:
> (*i*) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution;
> (*ii*) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses;
> (*iii*) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence;
> (*iv*) character, behaviour and standing of the accused and the circumstances which are peculiar to the accused;
> (*v*) larger interest of the public or the State and similar other considerations.
> [Vide *Prahlad Singh Bhati* v. *State (NCT of Delhi)* [*Prahlad Singh Bhati* v. *State (NCT of Delhi)*, (2001) 4 SCC 280 : 2001 SCC (Cri) 674] .]"

13. In the present case, the chargesheet has been filed. It is the case of the prosecution that further investigation is still ongoing. The material on record, as stated hereinabove, collected during the course of investigation, *prima* *facie,* demonstrates the active involvement of the present applicant. It is also the case of the prosecution that other cases involving commission of a similar offence have also been registered against the present applicant. The conduct of the present applicant, as enumerated hereinabove, gives rise to a reasonable possibility of his likelihood of absconding, if granted bail.

14. In view of the aforesaid, this Court is not inclined to allow the present application applicant at this stage.

15. The applicant is accordingly dismissed at this stage and disposed of.

16. Pending applications, also stand disposed of.

17. Needless to state, nothing stated hereinabove is an opinion on the merits of the case and any observation made is only for the purpose of the present bail application.

18. Judgment be uploaded on the website of this Court, *forthwith.*

19. Copy of the judgment be sent to the concerned jail superintendent for necessary information.

AMIT SHARMA
JUDGE

DECEMBER 11, 2023/nk