2024:BHC-AUG:29744

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

961 ANTICIPATORY BAIL APPLICATION NO. 1544 OF 2024
WITH CRIMINAL APPLICATION NO. 4123 OF 2024

VISHNU KAMALRAO BHOSALE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

Mr. S. S. Jadhav, Advocate for the applicant
Mr. B. A. Shinde, APP for the respondent/State
Mr. G. J. Pahilwan h/f Mr. Avinash Aute, Advocate for the informant

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WITH

ANTICIPATORY BAIL APPLICATION NO. 1853 OF 2024

WITH CRIMINAL APPLICATION NO. 4433 OF 2024

ABHIJEET VISHNU BHOSALE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. S. S. Jadhav, Advocate for the applicant
Mr. B. A. Shinde, APP for the respondent/State
Mr. G. J. Pahilwan h/f Mr. Avinash Aute, Advocate for the informant

CORAM : R. M. JOSHI, J.
DATE : 13th DECEMBER, 2024

PER COURT :-

1. Applicants apprehend arrest in connection with Crime No. 240/2024, registered with Jawahar Nagar Police Station, District Aurangabad for the offences punishable under Sections 316(2), 318(4), 3(5) of the Bharatiya Nyaya Sanhita and Sections 3 and 4 of the

Maharashtra Protection of Interest of Depositors Act.

2. Applicants are brother and father of main accused Manoj Vishnu Bhosale. The first informant Waman reported to the police that he learnt from his acquittance that S. M. Capital Company run by Manoj Bhosale and Sunil Ugalmugle gives good returns on the investment. The informant, therefore, went to the office of the said company. He claims that at that time Sunil Ugalmugle introduced himself to the partner of the said company. He told informant that the present applicants are also working in the said company. It is alleged that on the assurance given by the said persons, he invested Rs.5 lakhs. An agreement was entered in to in this regard with Sunil and Manoj. He, further claims that an amount of Rs.2,87,900/- received by him. He thereafter invested further amount of Rs.8 lakhs. At that time also agreement was executed by Sunil and Manoj. The allegation is that applicant Vishnu has assured him to return the money if his son Manoj does not repays the same.

3. Learned counsel for the applicants submits that the applicants are not concerned with the said investment company as applicant Vishnu is a teacher in a Z.P. School whereas the other applicant Abhijit is running a pharmacy. He drew attention of the Court to the screen shots of the WhatsApp before the investors which according to him indicate that it was decided by them to implicate the present

applicants in this crime. It is his submission that in absence of any evidence to show that the applicants are the concerned with the said company or received any money from the said crime, their liberty deserves to be protected.

4. Learned APP and learned counsel for the informant opposed the said application. It is their contention that there are statements of the witnesses/ investors which indicate that the present applicants have told the investors to invest the money into the said company and has told them that the amounts would be accepted in cash in this regard receipts issued by the company is sought to be relied upon. It is also submitted that the alleged WhatsApp chats though indicate about involvement of five persons, the fact that against all of them offence is not registered, which indicates that there is no substance in the contention of the learned counsel for the applicants. Learned counsel for the informant submits that the applicants are partners of the said investment company.

5. Except for the fact that the applicants herein are father and brother of the main accused, there is absolutely no *prima facie* evidence on record to connect them with the crime in question. Though statements of witnesses are recorded on 26/08/2024 by the Investigating Officer but the same are preceded by the discussion

between the investors for implicating the applicants in this crime. The moment it is found that there is evidence on record, which creates false implication the statements recorded thereafter cannot be considered as a gospel truth. In any case, even if the such statements are considered, none of the investors/ witness claims that any amount is given in cash to the present applicants. Learned APP was asked to take instructions with regard to the receipts placed on record as to who has signed the said receipts. Admittedly these receipts are not signed by the applicants herein.

6. Having regard to the above facts, for want of any prima facie evidence indicate that the applicants were working for the said company or have received any money from the investors, their liberty deserves to be protected. Hence, applications stand allowed in terms of interim order dated 20/09/2024 and 25/10/2024.

(R. M. JOSHI, J.)

ssp