IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 272 OF 2024

Nikhil Ramesh Repal ..Applicant

Versus

The State of Maharashtra ..Respondent

Mr. Kedar J. Patil a/w. Sakshi Kadam, Sachin Mane and Pratik G. Tare for Applicant.
Mr. Avinash A. Naik, APP for State/Respondent.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 23 APRIL 2024

P.C. :-

1. The Applicant is seeking his release on bail in connection with C.R.No.304 of 2023 registered at Ichalkaranji police station, Kolhapur, on 30.08.2023, under sections 420, 406, 409, 506 and 120-B, r/w. 34 of the Indian Penal Code and U/s.3 and 4 of The Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (for short 'MPID Act'). The applicant is arrested on 31/08/2023 and since then he is in custody.

2. Heard Mr. Kedar Patil, learned counsel for the applicant and Mr. Avinash Naik, learned APP for the State.

3. The F.I.R. is lodged by one Pandharinath Mahajan on 30.08.2023. He has stated that, he was knowing one Vyankatesh Bhoi. He approached the informant along with the other accused Chetan Mohire, Pranali Mohire and Pragati Solankure. Vyankatesh told the informant that if he invested in GDCC Crypto currency, he could get good returns; to the extent that he could get double the amount of his investment within one year. The rate of crypto currency was Rs.3300/- at that point of time and when it was to be launched, it was expected that it would be worth Rs.1 lakh. It would be launched on 25.12.2022. It is alleged that, all the accused induced him to invest in that crypto currency. One seminar was arranged at Ichalkaranji in October 2011. The informant was invited for that seminar. The informant along with his friend attended the seminar. Apart from these accused, one Irfan Sayyad was present there. Ajay Gaikwad and Priti Bhoi were introduced to the informant. There were many persons at the seminar. They were told about the crypto currency and the scheme of investment

therein. The F.I.R. mentions that, even the applicant Nikhil Repal was present along with other accused. It is further alleged that the informant paid all these accused for investment. In all, he paid Rs.24,70,905/-. His friends and acquaintances also paid money for investment. The total investment of the persons mentioned in the F.I.R. including the first informant was to the tune of Rs.37,30,905/-. After that, the money was not refunded and no amount was returned on the investment. The victims were cheated. On this basis the F.I.R. was lodged.

4. The investigation was carried out. During the investigation, the applicant was arrested on 31.08.2023, as mentioned earlier. Since then he is in custody. The prosecution story is reflected in the charge-sheet where it is summarised in column No.17. After reproducing the allegations in the F.I.R. it was further mentioned that, there were other victims and witnesses whose statements were recorded and the total amount revealed at the time of filing of the charge-sheet was to the tune of Rs.12,39,81,858/-. There were other victims who were cheated, but their statements were not recorded till the filing of the charge-

sheet. There was a reference to another offence registered at Jalna police station vide the C.R.No.28 of 2023 on the similar allegations under the similar sections. In that offence, there were many other investors. They were more than 37000 investors as was revealed from the website and the police could trace 142 investors. The amount involved was more than Rs.20 crores. As far as, present F.I.R. in respect of GDCC is concerned, the charge-sheet mentions that name of that crypto currency was Global Digital Cluster Coin (GDCC). It was started on Ethereum Blockchain in 2016. The main accused Irfan Sayyad had created about eight websites. One of them was closed. The accused had accepted the investment to the tune of more than Rs.12 crores as mentioned earlier. The applicant Nikhil Repal was the accused No.8.

5. Learned APP filed the affidavit in reply of the Deputy Superintendent of Police and the investigating officer Suvarna Patki highlighting the role played by the present applicant. It is mentioned in the affidavit that the applicant had accepted various amounts from the investors. The statements of three such investors are annexed to the affidavit in reply. It is mentioned in the said

affidavit that, various accused have purchased the property worth crores of rupees and, therefore, it is a serious offence. The applicant had no other business but he had turnover of more than lakhs of rupees in his bank account. So far as the specific allegations against the applicant are concerned, the affidavit refers to the statements of these three witnesses only. Learned APP submitted that the total amount which the applicant had accepted from these witnesses is to the tune of Rs.14.49 lakhs.

6. Learned counsel for the applicant made following submissions:

The applicant is not the main accused. There are allegations only in respect of three witnesses. There is only a vague reference to the applicant's name in the F.I.R. without specifying any role. The first informant has nowhere stated that the applicant himself had induced him or his friends for investing in that scheme of crypto-currency. Without prejudice to his rights and contentions, on instructions, learned counsel for the applicant stated that, out of the amount of Rs.14.49 lakhs, the applicant is ready and willing to deposit Rs.10 lakhs voluntarily in the trial Court. He submitted that the applicant has done the course of MBA and has a young son. The applicant's brother Abhijit himself had invested an amount of Rs.6.17 lakhs in the scheme. Therefore, it cannot be said that the applicant had induced others to invest in that scheme. He was not aware that ultimately the investors would lose their money.

7. Learned APP relied on the affidavit in reply referred to herein above and on the statements of the witnesses annexed to that affidavit. The specific allegations against the present applicant are about accepting the amount of Rs.14.49 lakhs.

8. I have considered these submissions. The statements of the witnesses referred to herein above are of Ajit Late, Amruta Late and Abhijit Pandare. Ajit has stated that the applicant had informed him about the said scheme. In the year 2021 he had met Chetan Mohire along with the applicant. Ajit has further stated that Chetan had told him that he was working as a Promoter in GDCC Crypto Currency. Chetan explained the plan to this witness.

Thus, this statement shows that the main inducement was made by Chetan. Further statement of Ajit recorded on 15.03.2024 mentions that, as per the instructions given by Chetan, Ajit had paid Rs.5,11,950/- to the applicant either through UPI or through cash.

Witness Amruta had similarly stated that, she had paid Rs.7,18,225/- in the account of the present applicant at the instructions of Chetan.

Abhijit had stated that he had transferred Rs.1,43,000/- on one occasion and Rs.76,500/- on the other occasion in the account of the present applicant. He had made other investment in the account of Chetan. He has further alleged that the present applicant was conducting seminars and was encouraging the investors to invest in VDTT coins. For that purpose, this witness had invested Rs.2,19,000/- in the applicant's account.

9. Thus, from these statements, it is clear that the main representation was made by Chetan and at his instance these

witnesses had transferred the money to the present applicant's account. Even Abhijit had sent the money to the applicant. But before that, he had invested in GDCC coins at the instance of Chetan. Hence, the allegations against the present applicant are in respect of accepting Rs.14.49 lakhs; as mentioned by learned APP. The serious allegation of inducement and accepting huge amount are made against the other accused. From the affidavit in reply filed by the learned APP, it is seen that the role of the applicant is much lesser and the main allegations against him are of accepting Rs.14.49 lakhs; out of which, the applicant has shown his willingness to deposit Rs.10 lakhs. He is in custody since 31.08.2023. The charge-sheet against him is already filed. In this view of the matter, his further custody is not necessary. He can be released on bail.

10. Hence, the following order :

<u>O R D E R</u>

(i) The Applicant is permitted to deposit Rs.10,00,000/- (Rupees Ten Lakhs) before the Trial Court.

(ii) On such deposit, the Trial Court shall invest that amount in a Fixed Term Deposit; to be renewed from time to time.

(iii) The final decision regarding the amount shall be taken by the Trial Court at the appropriate stage.

(iv) On such deposit of Rs.10,00,000/-, in connection with C.R.No.304 of 2023 registered at Ichalkaranji police station, Kolhapur, the applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(v) The Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)