(This order is corrected as per speaking to minutes order dated 20th September 2024.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1004 OF 2024

Taha Hafiz Kazi ... Applicant
Versus
The State of Maharashtra ... Respondent

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Ms. Sanjeev Kadam a/w Prashant Raut and Fehmida Ahmed i/by M. B. Shirsat for the Applicant.
Mr. Mayur S. Sonavane, APP for Respondent-State.
P.I. - Krishna Tikaram Kokani, Crime Branch, Unit-I, Thane.

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CORAM: MANISH PITALE, J.
DATE : 15th JULY 2024

P.C. :

. Heard learned counsel for the applicant and learned APP for respondent-State.

2. The applicant is one of the five accused persons and he is seeking bail in connection with FIR No. 116 of 2018 dated 4th June 2018 registered at Chitalsar Police Station, Thane, for offences under Sections 419, 420, 406, 465, 467, 468, 471, 120-B and 171 read with 34 of Indian Penal Code, 1860 (IPC), Section 4 of Chit Funds Act, 1982, Section 66D of Information Technology Act, 2000 (IT Act) and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act (MPID Act). The applicant was arrested on 4th June 2018 itself and he has remained behind bars since then. An earlier bail application filed by the applicant

was withdrawn simpliciter and thereafter, the present bail application has been preferred.

3. Mr. Kadam, learned counsel appearing for the applicant submits that in the present case, the main accused person Amit Lakhanpal is still absconding. The statement of the informant, leading to registration of the FIR, makes allegation pertaining to 4th August 2017 and onwards. It is submitted that allegation with regard to offence under Section 467 of the IPC is relatable only to the aforesaid main accused person, as it is alleged that he had shown his visiting card to the informant, showing the main accused person as a person concerned with the Finance Ministry. The only allegation against the applicant is pertaining to a statement about certain MT coins not belonging to the applicant. It is emphasized that the informant has not even alleged that the applicant had actively induced the informant and others into investing into cryptocurrency on the promise of handsome returns. Attention of this Court is invited to a payslip showing that the applicant joined on 1st March 2018 in the company. It is emphasized that the amounts were transferred by the informant in the account of the company in which the applicant was merely an employee.

4. On this basis, it is submitted that no ingredients pertaining to the offence under Section 467 of the IPC can be said to be made against the applicant. It is submitted that since the applicant has undergone incarceration for more than six years and the

maximum sentence that can be imposed even if the applicant is found guilty of the other offences is upto seven years, this Court may consider enlarging the applicant on bail.

5. On the other hand, the learned APP submitted that the very payslip on which the applicant relies, shows him as a Director of Technical Operation of the company and that his active involvement is evident from the statement leading to registration of the FIR. As innocent investors numbering about 403, were defrauded of a huge amount of Rs.15 crores, this Court may not show any indulgence to the applicant.

6. This Court has considered the rival submissions upon appreciating the material on record, which includes copy of charge-sheet and documents filed therewith.

7. The statement of the informant, leading to registration of the FIR, shows that the allegation regarding visiting card being shown, pertains specifically to the absconding accused No.1. It is alleged that the entire act of inducing was initiated on 4th August 2017 by the said main accused person. The payslip on record shows that the applicant joined as an employee of the company on 1st March 2018, which is much later than the aforementioned meeting of 4th August 2017. The informant has given details of transferring of amounts into the account of the company on the basis of the inducement. *Prima facie,* the applicant appears to be an employee of the company and the tenor of the statement of the

informant does not indicate any allegation against the applicant regarding forgery. This Court is convinced that the applicant has made out a *prima facie* case to claim that ingredients of the offence under Section 467 of the IPC are not made out against him, even if the material on record is to be accepted.

8. If that be so, it becomes relevant that maximum punishment for the other offences registered against the accused persons is to the extent of imprisonment for a period of seven years. In the present case, admittedly, the applicant was arrested on 4th June 2018 and hence, he has remained behind bars for more than six years. This Court is therefore, inclined to allow the present application.

9. In view of the above, the application is allowed in the following terms:

(a) The applicant shall be released on bail in connection with FIR No.116 of 2018 dated 4th June 2018 registered at Chitalsar Police Station, Thane, on furnishing P.R. Bond of ₹50,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(b) The applicant shall report to the office of Crime Branch, Unit-I, Dist. Thane, on first Monday of every month between 10:00 a.m. and 12:00 noon, during the pendency of the trial. The applicant shall attend the trial

Court on each and every date, unless specifically exempted by the trial Court.

(c) The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses or any other person concerned with the case.

(d) The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

10. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

11. The application is disposed of.

MANISH PITALE, J.