

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1988 OF 2024

Manish Rameshchandra Shah

...Applicant

Versus

The State of Maharashtra

...Respondent

- Dr. Sujay Kantawala, Mr. Prasad Borkar and Mr. M. Borkar, for Applicant.
- Mr. Sagar R. Agarkar, APP for Respondent.
- Mr. Santosh Ramchandra Kadam, P.I. E.O.W. - Unit-6 (GC 04), Mumbai

CORAM : MANISH PITALE, J.

DATE : 18th July, 2024.

P. C. :

1. Heard Mr. Kantawala, learned counsel for the applicant and Mr. Agarkar, learned APP for the State.

2. The applicant has applied for bail as he was arrested on 03rd February, 2024, in connection with First Information Report No.0911 of 2023, dated 27th November, 2023, registered at Police Station Kasturba Marg, for offences under Sections 420, 465, 467, 468 and 471 read with 120(B) of the Indian Penal Code (IPC). This Court is informed that the investigation is carried out by the office of the EOW, Zone-6, Gen Cheating-4, Mumbai. As a consequence, the case is now registered as Crime No.66 of 2023, registered by EOW, General Cheating-4, Mumbai.

3. The FIR was initially registered against unknown persons. It was

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registered at the behest of an employee of a company called J.M. Financial Services Ltd. It was alleged that unknown persons had siphoned off huge amount of money by creating fake Demat accounts of shareholders whose shares were lying dormant. Such shares were disposed of and the proceeds were misappropriated. When the aggrieved persons approached the company of the informant, the FIR came to be registered and the investigation was undertaken. As on today, there are three accused persons in the present case, of whom the applicant is accused No.3. Considering the material now available on record along with the charge-sheet filed on 20th March, 2024, it appears that accused No.1 Arvind Goyal is the main accused person.

4. The learned counsel for the applicant submits that other than certain whatsapp chats exchanged between the applicant and the accused No.3 Arvind Goyal, there is no material to connect the applicant with the alleged offence. It is submitted that the applicant is a broker and as a matter of course and business, the applicant had forwarded details of certain shares and this has given rise to suspicion about the involvement of the applicant in the present case. There is no material to indicate that the applicant has benefited in any manner, as a consequence of the said offence and therefore, this Court may consider enlarging the applicant on bail, as he has already undergone more than 5 Months of incarceration.

5. The learned APP referred to the whatsapp chats and he submitted that photographs of papers pertaining to such dormant shares were forwarded from the mobile of the applicant to the mobile number of accused No.1 Arvind Goyal. It is specifically stated in the charge-sheet that apart from such information being forwarded by whatsapp, the Call Details Records (CDR) show that the applicant and accused No.1 were in constant touch with each other. It is further submitted that the applicant had played a role in opening fake accounts of the victims, thereby indicating a strong *prima facie* case against the applicant.

6. This Court has perused the charge-sheet and the documentary material on record. There are indeed whatsapp chats placed on record along with the charge-sheet, indicating that certain messages emanated from the mobile phone of the applicant and they were sent to the accused No.1. The CDRs also appear to indicate that the applicant and accused No.1 may have been in contact with each other.

7. Being a stock broker and in the business of shares, merely because the applicant was in touch with accused No.1 and he forwarded certain whatsapp messages concerning details of shares that could be said to be dormant, in itself cannot be the basis of claiming that the applicant had a major role to play in duping the shareholders (victims). Although it is stated

in the charge-sheet that the applicant had an active role to play in opening of fake accounts of such victim shareholders, there does not appear to be any material to support such an assertion. It is brought to the notice of this Court that one of the employees of accused No.1 i.e. Mahadev Gavde, in his statement recorded under Section 164 of the Cr.P.C. has described in detail as to the manner in which the accused No.1 used to open such fake accounts of the victim shareholders. There is no role ascribed to the applicant in the said statement.

8. In this situation, this Court is of the opinion that the applicant had been able to make out a case to contend that there is scant material to directly link the applicant with the incident in question, leading to registration of the FIR. There is presently no material on record to show that the applicant in any manner could be said to be a beneficiary of the alleged activities that led to registration of the FIR. The applicant has already spent more than 5 Months behind bars and in this situation, this Court is 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 Crime No.66 of 2023, registered by EOW, General Cheating-4, Mumbai originally registered as FIR No.0911

of 2023, dated 27th November, 2023, registered at Police Station Kasturba Marg, for offences under Sections 420, 465, 467, 468 and 471 read with 120(B) of the Indian Penal Code (IPC), on furnishing PR bond of ₹ 1,00,000/- and one or two sureties in the like amount to the satisfaction of the Trial Court.

- (C) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.
- (D) The applicant shall upon release immediately inform the Investigating Officer of his contact number and residential address and update the same 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.

11. It is further made clear that the observations made in this order are limited to the question of grant of bail to the applicant and that the Trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

12. The application is disposed of.

(MANISH PITALE, J.)