IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1644 OF 2024

Manik Ramnath Hase … Applicant
Vs.
State of Maharashtra … Respondent

Mr. Kalpesh U. Patil for Applicant.
Mr. Mayur S. Sonavane, APP for Respondent-State.
Mr. Sunil Madhukar Bhadane, PSI, Anti Extortion Cell, Pimpri-Chinchwad, Pune.

CORAM : MANISH PITALE, J.
DATE : JULY 12, 2024

P.C. :

. Heard Mr. Patil, learned counsel for the applicant and Mr.Sonavane, learned APP for the respondent-State.

2. In the present case, initially, the applicant was granted anticipatory bail on the condition of depositing a substantial amount. This Court found the said condition to be onerous and accordingly, the order was set aside and the Sessions Court was directed to decide the application of the applicant afresh on its own merits and in the meanwhile, the applicant was granted protection from arrest.

3. Subsequently, by an order dated 06.05.2024, the Sessions Court rejected the anticipatory bail application of the applicant and therefore, the applicant filed the instant application.

4. On 24.06.2024, this Court granted interim order in favour of the applicant, *inter alia*, on the ground that the applicant had specifically contended that he was as much a victim as the informant in the present case and also in the light of the fact that in the first instance, the applicant was not named as one of the accused persons in the subject

FIR. The said FIR was registered on 20.03.2020 in Hinjewadi Police Station, District - Pimpri Chinchwad, for offence under Section 420 read with Section 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

5. The learned counsel for the applicant submits that in pursuance of the interim order granted by this Court, the applicant remained present before the investigating officer and that he submitted all the required documents. The case of the applicant is that specific agreements were executed with the main accused persons concerned with a company called ‘Mega Mind Tracker Consultancy Private Limited’. As per the agreements, the applicant invested amount of Rs.20,00,000/- on promised returns and opened franchisee for an *App* called ‘*Lukchup*’. In that regard, the applicant had rented a premises for an office and employed certain persons. It is the case of the applicant that even he did not receive the promised returns from the persons, who were named as accused persons in the subject FIR and having co-operated with the investigation, the present application ought to be allowed. He submits that the learned APP, on instructions of the investigating officer, is making an artificial distinction by categorizing amounts credited to the account of the applicant by the aforesaid company.

6. The learned APP submits that although the applicant was not named as an accused initially, during the course of investigation, witnesses stated that the applicant had lured them into investing and opening franchisees of the aforesaid company by promising handsome returns. According to such witnesses, they suffered huge financial losses as they proceeded on the basis of the allurement and inducement given by the applicant. One of the witnesses even stated that she had transferred certain amount into the account of the applicant. It is

submitted that a strong *prima facie* case is made out against the applicant and further protection is not justified, particularly because the main accused persons are absconding.

7. This Court has considered the material on record, particularly the compilation of statements of witnesses recorded during the course of investigation. The subject FIR was registered on the basis of a statement made by the first informant that the named accused persons, concerned with the aforesaid company, had lured her into opening franchisee in connection with the said mobile application and in that process, the informant had suffered heavy financial losses. The promised returns never materialized, resulting in registration of the FIR. It is during the course of the investigation and recording of statements of the witnesses that the role of the applicant came to light.

8. This Court has perused the statements of the witnesses, including Santosh Chavhan, Nilesh Kadhane, Abhinav Abhang, Rushikesh Daye, Ketankumar Chandratike, Sonali Bhondve amongst others. All the aforesaid witnesses have stated the specific role of the applicant in inducing them into taking franchisees of the said company. It is stated by the said witnesses that the applicant told them to invest huge amounts of money by promising return to the extent of 30% to 40%. All such witnesses have stated that they lost the amounts that were deposited. The witness Sonali Bhondve, apart from alleging the inducement given by the applicant, also specifically stated that, she transferred an amount of Rs.1,70,000/- into the account of the applicant and also gave a further amount of Rs.1,80,000/- in cash to him and that she had a grievance in that regard. Although,the learned counsel for the applicant submits that an amount of Rs.1,17,000/- was returned into the account of the said witness Sonali Bhondve and the balance amount of Rs.53,000/- out of Rs.1,80,000/- was given in cash, this Court is of the opinion that such

explanations, at this stage, cannot be accepted as the defence of the applicant.

9. The question is, as to what was the role of the applicant in this entire *modus operandi* of the main accused persons concerned with the said company, when innocent investors like the original informant and the aforementioned witnesses were duped into depositing substantial amounts of money.

10. The theory of the applicant that he is as much a victim as such persons and the original informant, cannot be believed on the basis of the material available on record. Bank account statements available with the investigating officer show that the applicant received huge amount of Rs.44,30,945/- over a period of time between February 2019 and August 2019 i.e. the very period when the aforesaid persons have stated that they were induced and lured by the applicant to take franchisees of the aforementioned company. This Court is not even referring to the bifurcation of the amounts sought to be made by the learned APP. The total amount itself is enough to indicate that the applicant can certainly not claim to be a victim in the present case. The specific statements made by the aforementioned witnesses during the course of investigation, about the manner in which the applicant induced and lured them into parting with huge amounts of money on the promise of handsome returns, is enough to make out a strong *prima facie* case against the applicant.

11. In such a situation, the applicant cannot claim that since the investigation would involve only documentary material, which he has allegedly already provided, no purpose would be served by taking the applicant into custody.

12. The learned APP has indicated that further investigation is

necessary for finding out the link of the applicant with the main accused persons concerned with the company, for the reason that the huge amounts were indeed transferred by the company into the account of the applicant.

13. Reliance placed on behalf of the applicant on the orders granting regular bail to some of the co-accused persons cannot inure to his benefit as the considerations for regular bail are indeed different from the considerations regarding application for anticipatory bail.

14. In view of the above, the application is dismissed.

15. The interim order stands vacated.

(MANISH PITALE, J.)

Minal Parab