**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**NAGPUR BENCH : NAGPUR**

**CRIMINAL APPLICATION (ABA) NO.65 OF 2024**

Sachin s/o Sukhdev Meshram
Vs.
State of Maharashtra, Through Police Station Officer, Police Station, Kapil Nagar, Nagpur

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| Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders | Court's or Judge's orders |
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Mr. J. M. Gandhi, Advocate for applicant.
Mr. M. J. Khan, APP for respondent/State.
Mr. A. S. Tiwari, Advocate and Mr. C. F. Bagwani, Advocate for assist to prosecution.

**CORAM : URMILA JOSHI-PHALKE, J.**
**DATED : 25/07/2024**

1. Apprehending the arrest at the hands of police in connection with Crime No.461/2023 registered with Police Station, Kapil Nagar, Nagpur for the offences punishable under Sections 406, 420 read with Section 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act (MPID Act), the applicant approached this Court for grant of pre-arrest bail.

2. The applicant is apprehending arrest at the hands of police as crime is registered on the basis of report lodged by Shubham Umesh Wankhede on 11.10.2023 alleging that in the month of December 2021 his cousin aunt namely Sushma Meshram informed him that a Sankalp Sales Corporation firm is

doing the kitty scheme and informed that of Rs.16,000/- per month if deposited Rs.4,000/- interest can be received and total amount of Rs.20,000/- the investor will get. It is further alleged that on 26.12.2021 the informant visited the office of Chaitanya Nagar, Sankalp Corporation, Nagpur and at that place the board was affixed showing the mobile number of the Proprietor namely Sachin Meshram i.e. present applicant and 300 – 400 persons were present there and the lucky draw process was going on. The complainant prepared his card on 01.02.2022 and paid an amount of Rs.1000/- to Sushma Meshram. The terms and conditions were mentioned in the card. The details of the furniture was also provided. The complainant has deposited the amount of Rs.3,40,000/-. It further informed to the complainant total five thousand depositors have deposited the amount and under the said dubious scheme amounts of Rs.28,00,000/- was taken through agent Sushma Meshram, Rs.11,00,000/- from Jyotsna Wasnik, Rs.9,00,000/- from one Satvantsingh Subbarwal, Rs.1,00,000/- from Ranil Khatrapal, Rs.4,00,000/- from Simran Wanjari, Rs.30,00,000 from Surekha Bagade, Rs.3,00,000/- from Sima Meshram and Rs.10,00,000/- from Chaitali Ramtake and Rs.3,00,000/- Prinka Aawale. In this way total amount of Rs.1,02,40,000/- was collected from various agents by the Director of the said Sanklap Sales Corporation namely Sachin Meshram. As the complainant has neither received any interest amount nor received any articles therefore, he approached to the Police Station and lodged report. On the basis of the said report, police have registered the crime against the present applicant.

3. Heard learned Counsel for the applicant who submitted that the present applicant is the Proprietor of Sankalp Sales Corporation which deals in the business of providing the necessary furniture, accessories and electronic equipment to its valued customers. The applicant has floated the scheme to deposit Rs.1,000/- per month and accordingly, the various investors have invested the amount and became the members of the said scheme and several persons have received the articles under the said scheme. He submitted that in fact, one employee namely Sunita Chitrasen Pache has induced the customers and she has accepted the amount and transferred the said amount to her own account in the Punjab National Bank, Indora Branch. As soon as the applicant has received the information about the same, he immediately approached to the Police Inspector, Kapil Nagar Police Station, as well as the higher Police officials and lodged the report. It is Sunita Chitrasen Pache, who has induced the various customers to deposit the amount and misappropriated the said amount. But the investigating agency even not considered the grievances of the present applicant and his FIR is not registered. He submitted that prior to the lodging of

the FIR, he filed three reports which were not taken into consideration by the investigating agency and unfairly the investigation was carried out. He submitted that on the contrary, the present informant and some of the investors have ransacked his agency and stolen the articles there. The applicant approached the Police Station and informed them about the incident along with the CCTV footage but that was also not considered by the investigating agency and this false FIR is lodged against him.

4. Learned Counsel for the applicant has taken me through the various documents and submitted that the scheme floated by the applicant was legal scheme. The various investors have received the articles against their investments. The applicant has also cooperated with the investigating agency and attended the Police Station. He submitted that it was the present applicant who was handed over the various documents to the investigating agency. He filed some photographs on record and submitted that the said photographs reveal that the present informant and some of the investors have ransacked his shop in spite of which, the complaint was registered against the unknown person and this fact is sufficient to show the unfairness on the part of the investigation. He submitted that considering all these aspects and the applicant has cooperated with the investigating agency, his arrest or custodial interrogation is not

required, in view of that, he be released on anticipatory bail, in the event of his arrest.

5. Learned APP and learned Counsel appearing for the complainant and some of the investors strongly opposed the said application on the ground that during the investigation, it revealed that several investors have invested the amount. In all 3087 persons invested the amount worth of Rs.6,84,87,150/-. During the information, the Investigation Officer has seized the card of the said scheme issued by the present applicant which are 2482 in numbers by drawing the seizure panchnama. The statements of the respective agents are also recorded from which it reveals that they were deputed to allure and induced the investors to invest the amount on the promise of receiving the furniture on the investment of amount. Simultaneously, another scheme was floated asking the investors to invest the amount to get handsome returns on invested amount. He further submitted that Investigating Officer during the course of investigation also collected brochures of the firm showing the photographs of various valuable articles which came to be given to the depositors to allure than to deposit in dubious scheme presented by the present applicant. The Investigating Officer has also collected the agreement between the Hemlata and the present applicant and the other agreement executed between Sunita Pache and the present

applicant wherein the applicant has admitted about the receipt of the payment from the respective depositors and also assured about the repayment of the said amount to the respective depositors. The applicant has accepted the deposits from the respective depositors in his various bank accounts namely HDFC, Teka Naka, Axis Bank Branch at Jaripatka, UCO Bank, Ramtek and Axis Bank, Jaripatka. It is submitted that through aforesaid respective bank accounts, the applicant has received approximately the amount of Rs.17 Crores from 5000 to 7000 depositors on the basis of the cards provided by the applicant. He has also raised the apprehension that if applicant/accused is released on bail, he would not be available for the investigation purpose and he would dispose of the property and it would be difficult for the investigating agency to comply in view of Section 4 of the MPID Act.

6. In addition to this, he submitted that after the applicant is protected by this Court, he has threatened the material witnesses regarding the same NC was registered against the present applicant. He has also not attended the Police Station approximately for ten weeks and not cooperated with the investigating agency. The entries in the Station Diary shows that the applicant has not cooperated. He has misled to the investigating Officer also. He further submitted that applicant has not stopped his illegal activities still, he

is running the said scheme at Tumsar and Bhandara. The statements of the witnesses, statements of the employees working with the present applicant, the photographs and the statements of the agents shows the involvement of the present applicant with the alleged offence. There are criminal antecedents also. Thus, considering the same, the application deserves to be rejected.

7. Learned Counsels for the complainant and the other investors have also endorsed the same contentions and strongly opposed the application for grant of bail.

8. After hearing the learned Counsel for the applicant and learned APP for the State, perused the investigation papers from which it reveals that the applicant is the Proprietor of the Sankalp Sales Corporation and he has floated the scheme under the name as a 'Bhishi' scheme and induced the various investors to invest the amount on a promise that if deposits up to Rs.16,000/- per month, they would get Rs.4,000/- as interest. Thus, on depositing Rs.16,000/- they will get Rs.20,000/- i.e. the handsome returns on investing the said amount and therefore, approximately 3087 investors have invested the amount. The applicant is the Proprietor of the said Sankalp Sales Corporation revealed from the GST registration which shows that the present applicant is the Proprietor of the said Sankalp Sales

Corporation and running the business under the said name of selling the furniture. During the investigation, the Investigating Officer has also collected the rent agreement which was entered by the present applicant with one Kisan Bhaiyalal Kanojiya which shows that the applicant is running the business at Chaitanya Nagar, Nagpur. As far as the investment by the investors is concerned, learned APP submitted that the present applicant is the kingpin and he is the person who appointed various agents.

9. To support his contentions, he placed reliance on the statement of agent namely Rachana Suresh Matre, who stated that she was appointed as agent by the present applicant and she was asked to collect the customers and get the investment from them, on the promise that they would get a handsome benefit on investment of the amount as well as they would get the various articles on the investment of amount by lucky draw. Thus, from the investigation papers, it revealed that the present applicant while running the said scheme deputed various agents to collect the investment amount from the various investors. While running the scheme for the lucky draw of the furniture, another scheme was also floated by the present applicant on the promise that if the investors invested the amount, they would get handsome returns on the said investment.

10. The statements of various investors are also recorded by the investigating agency including the statement of the informant from which it reveals that they were promised for the investment by the present applicant as well as the various agents and they were promised for the handsome returns. For example, if they deposit Rs.16,000/- per month, they would get Rs.4,000/- as an interest and accordingly, they would receive Rs.20,000/- on the investment of Rs.16,000/-.

11. The statement of Satvantsingh Subbarwal who has also invested the amount shows that he was not only acted as an agent, but he has also invested the amount and the said amount is received by the present applicant from the agents and the receipts are given wherein the present applicant has admitted that he has received the amount. Thus, the statements of these witnesses sufficiently show that on the inducement by the present applicant as well as the agent deputed by him, several investors have invested the amount and thereafter, the said investors were duped by the present applicant.

12. From the investigation papers, it reveals that the Investigating Officer has collected the statements of the accounts which shows the various entries regarding the depositing of the amount either in the name of the present applicant or in the name of his wife or the other family members. The

relevant entries are on record shows that in the UCO bank the account of the present applicant is maintained wherein one Rajesh Arun has deposited Rs.25,000/- thereafter, said Rajesh Arun has deposited several amounts time to time by cash. There are several entries showing that various investors have invested the amount which was deposited in the bank account of the present applicant or his wife. Thus, the collection of the amount from the investors was revealed from the said investigation papers.

13. Learned APP also pointed out that it is the contention of the applicant that whatever misappropriated was done by the agent Sunita Pache, however, the receipts which are collected during the investigation show that the applicant has acknowledged the amount received from Sunita Pache, who was working as an agent for the present applicant. This receipt clearly shows that the said amount collected by Sunita Pache was handed over to the present applicant and the present applicant has acknowledged the same. These receipts are collected during the investigation from the said Sunita Pache. Thus, the evidence collected during the investigation sufficiently shows the involvement of the present applicant in the alleged offence. It is to be noted that the investors who have invested the amount are from either middle-class families or from the poor strata of the society. They have invested

the amount which was their hard earned money for getting some benefits on the investment, but they have not received any benefits from the said investment, but they are duped.

14. The learned APP pointed out from the investigation papers that why the custodial interrogation of the present applicant is required. Considering there was no compliance under Section 41, the interim protection was granted to the present applicant, but from the diary which was produced and the station diary which was maintained regarding the presence of the present applicant it reveals that the applicant has not attended the Police Station at least for ten weeks and not cooperated with the investigating agency. The various general diary entries produced on record shows that though he was intimated by the investigating agency to come forward and to cooperate with the investigating agency and while releasing the present applicant on interim bail, he was directed to remain present once in a week in between 10.00 a.m. to 1.00 p.m. but initially, he has attended some days and subsequently, after receipt of the notice also he has not attended the Police Station and not cooperated with the investigating agency. Thus, the applicant has not complied with the condition imposed by this Court. The general diary entries and the diary maintained by the Investigation Officer shows at least for ten weeks, the applicant has not attended

the Police Station and not cooperated with the investigating agency. From the entire investigation material it is apparent that there is no cooperation from the applicant and *prima facie* case is made out against the present applicant.

15. The relief of anticipatory bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact on society, and the need for a fair and free investigation. The discretion is to be used in weighing these interests in the facts and circumstances of each case. Though learned Counsel for applicant submitted that the nature of the transaction is of civil nature and the custodial interrogation is not required, however the intention of applicants can be gathered from circumstances and manner in which transactions were entered into by applicants and large money is collected from the poor strata of the society i.e. from the middle-class and the persons who are working as a labours or a maid servants.

16. It is well settled that jurisdiction to grant bail has to be exercised having regard to facts and circumstances of each case. The factors to be taken

into consideration are; nature of accusations; reasonable apprehension of tampering with witnesses; reasonable possibility of securing presence of accused etc. and each has to be considered on its own merits.

17. In the present case, considering the nature of the crime, that several investors are duped by accepting the amount by the present applicant either himself or through the agents and the stake of the amount is more than Rs.6,84,87,150/-. Thus, the involvement of the present applicant reveals in the economic offence.

18. The Hon'ble Apex Court, while dealing with offence, involving conspiracy to commit economic offences of huge magnitude, in the case of **Y.S.Jagan Mohan Reddy vs. CBI**, reported in **(2013) 7 SCC 439** laid down following parameters:

> i) economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country, and
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> ii) while granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail,

> the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interest of the public/State and other similar considerations.

19. In another decision the Hon'ble Apex Court, in the case of **State of Gujarat vs. Mohan Lal Jitamalji Porwal**, reported in **(1987) 2 SCC 364** wherein it is held:

> "5. ….The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest….."

20. Considering the role of applicant in the crime having involved enormous and huge amount and duped the various investors who have invested their hard earned money. The investigation is at a

prime stage and the invested amount is at a stake, the role of the present applicant is clearly exposed.

21. In the background of accusations and its gravity, the applicant has not made out a case for grant of anticipatory bail in the event of his arrest and, therefore, the application deserves to be rejected and the same is rejected.

22. The observations made above are *prima facie* in nature, on the basis of material which is produced before me for deciding the bail application, the trial Court shall not be influenced by the same. In view of that, I proceed to pass following order:

The application is rejected.

**(URMILA JOSHI-PHALKE, J.)**

Sarkate