**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.357 OF 2024
(Ajinkya Anil Mulmule Vs. State of Maharashtra)

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's order	Court's or Judge's Order

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Mr. A.M. Chandekar, Advocate for applicant.
Mr. S.A. Ashirgade, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- SEPTEMBER 30, 2024.

Apprehending arrest at the hands of police in connection with Crime No.224/2022 registered with Chimur Police Station, District Chandrapur for the offence punishable under Section 420 of Indian Penal Code, the applicant has approached this court for grant of pre-arrest bail.

2. The accusation against the present applicant is on the basis of report lodged by one Neha Gajanan Kohle alleging that the applicant representing himself as a member of Q-Net Vihan Direct Selling Company introduced one scheme and made the informant to invest an amount of Rs.2,50,000/- with a promise that there shall be good return. It is further alleged that the applicant had not informed the informant that informant has to create new members and that they would get an amount of Rs.13,000/- per member adding in the scheme. After depositing an amount of Rs.2,50,000/- the informant was informed about adding of the members and thus she

demanded return of the deposited amount which was not returned by the present applicant.

3. Learned Counsel for the applicant submitted that as far as allegations are concerned which are only to the extent of inducement, the informant was well aware about the scheme of the Company and after understanding the scheme, she has invested the amount. The amount is invested with the Company and not with the present applicant. He submitted that there is no compliance of Section 41 or 41-A of Cr.P.C. In view of the decision of the Honourable Apex Court in ***Satender Kumar Antil vs. Central Bureau of Investigation (2022) 10 SCC 51***, notice is mandatory and that mandatory compliance is not done by the Investigating Officer. As far as the custodial interrogation is concerned which is not required. In view of that, the interim protection granted to the applicant deserves to be confirmed.

4. Learned Additional Public Prosecutor strongly opposed the said application and submitted that the scheme was never explained to the informant. Only she was asked to invest the amount and she invested the amount and subsequently she came to know that she has to add the other members, and therefore, she asked the her money back. He submitted that as far as the custodial interrogation of the applicant is concerned which is required for the purpose of recovery of the amount also. In view of that, the interim protection granted to the applicant deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the investigation papers. From the statement of the informant it reveals that as the applicant asked her to invest the amount on the promise of good returns and she invested the amount. She subsequently came to know when the meeting was held that she has to add the persons as per the said scheme and her husband asked her that she will not invest the amount in that, and therefore, she decided to get the money return back but the applicant has not returned the amount back to her, and therefore, she approached to the police station.

6. On perusal of the investigation papers, it reveals that some scheme was introduced and the present applicant asked her to invest the amount. The statement of the informant and her husband are recorded. From the statement of her husband it reveals that when they demanded the amount back by saying that they don't want to invest the said amount and that amount is not returned back, and therefore, this FIR came to be lodged.

7. Learned Counsel for the applicant placed reliance on the decision of the Karnataka High Court in ***Naresh Balasubramaniam vs State Of Karnataka [2017 (3) AKR 825]*** wherein the Karnataka High Court has by relying the decision of this Court held that on a consideration of the material produced and the rival contentions, it is seen that it is neither the case of the *de facto* complainant nor the police that the petitioner had committed any overt act in inducing the complainant from

parting with any money or that he had influenced her in doing so, but the petitioner appears to be included in the Charge sheet only on account of the fact that he is said to be a Managing consultant of M/s Q-Net India. It is further held that the a *prima facie* perusal of the FIR and the charge sheet reveals that the ingredients of the offences under Sections 417, 419 and 420 are not made out.

8. As far as the application of the said observation to the present case is concerned it reveals that the applicant has asked the informant to invest the amount and accordingly she has invested the amount. As far as the custodial interrogation is concerned which is not required as the applicant has attended the police station and cooperated with the investigation agency. In view of that the interim protection granted to the applicant deserves to be confirmed.

9. Hence, the application is allowed. The interim protection granted to the applicant vide order dated 21/05/2024 is hereby confirmed on the same terms and conditions.

10. The failure of the applicant to approach to the police station and attend the police station would lead to the cancellation of bail.

11. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*