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

CRIMINAL APPLICATION (BA) NO. 722 OF 2024

Shekhar s/o Nimbaji Sakhare **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

Mr. Anil A. Dhawas, counsel for the applicant.
Mrs. H.N. Prabhu, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 04/10/2024.

1. The applicant came to be arrested on 01/04/2024, in connection with Crime No. 397/2022 registered with Police Station Pachpavali, District Nagpur, for the offences punishable under Sections 409, 420, 120B read with Section 34 of the Indian Penal Code, 1860, and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishment Act, 1999) (for short ‘ the MPID’).

2. The crime is registered on the basis of a report lodged by Damodar Mahadeo Meshram alleging that the applicant, who is the Director of Trade Win Multi Services Private Limited, met him to Nilima Sahare on 09/09/2020. The applicant introduced himself as a Director of the said Trade Win Multi Services Private Limited and also induced the complainant that if he invested in the company of the applicant, he would receive the double deposited amount within a period of 20 weeks. It is further alleged that the applicant has not induced the present applicant but induced various investors, and various investors have invested the

amount. As per the allegation in the F.I.R, the informant received a certain amount in his bank account after investing in the company. However, after some time, he has not received any amount, and therefore, he made an inquiry. During the investigation, it revealed that the present informant and other investors have duped the amount of Rs. 30 lakhs. On the basis of the said report, police have registered the crime against the present applicant.

3. The learned counsel for the applicant submitted that, as far as the allegations are concerned, the applicant was running the company; however, the investors have invested the money after understanding the scheme. Initially, they have received the returns, but due to some reasons, the investors have not received the returns, and therefore, this report is filed. He submitted that as far as further incarceration of the applicant is concerned, which is not required. Now investigation is completed and charge-sheet is filed, further incarceration of the applicant is not required.

4. Learned APP strongly opposed the said application and submitted that not only the informant but various investors were induced to invest the amount, and thereafter the investors have not received any returns towards that investment. When investors attempted to contact the present applicant, it was found that he has closed the company, and the account of the company is also closed. There is no alternative for the investors to recover the amount. She

submitted that, considering the applicant was absconding for a long period, thereafter the crime was registered and subsequently he was arrested on 01/04/2024. If he is released on bail, there is every likelihood of his abscondance, and he would not be available for trial, and trial would not be held up.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers, from which it reveals that the informant as well as various investors have invested the amount in the company, which is owned by the present applicant, namely Trade Win Multi Services Private Limited. It is also apparent that, as the informant and the investors were introduced with the scheme, they can receive double the amount of the investment, and therefore, they have invested the amount in the company of the present applicant. The statements of the various witnesses show the involvement of the present applicant in the alleged offence. At the same time, the investigation is already completed and charge-sheet is filed. There is no dispute as to the fact that the involvement of the present applicant is in the economic offence. Now it is well settled that, merely because the involvement of the applicant in the economic offence, is not sufficient to reject the bail application.

6. The Hon'ble Apex Court in the case of ***P. Chidambaram v. Directorate of Enforcement, [(2020) 13 SCC 791]***, after taking note of the earlier decisions

governing the field held that, the gravity of the offence, object of the special act, and the attending circumstances are a few of the factors to be taken note of along with the period of the sentence. It is further held that after all, an economic offence cannot be classified as such, as it may involve various activities and may differ from one case to another. Therefore, it is not advisable on the part of the court to categorize all the offences into one group and deny bail on that basis.

7. It is further held by the Hon'ble Apex Court that keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offence would fall under the category of "grave offence" and in such circumstances while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provide so. Therefore, the underlining

conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial.

8. Moreover, the grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Thus, considering the fact that, now investigation is completed and charge-sheet is filed and further incarnation of the present applicant is not required. In view of that, the application of the present applicant deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order;

a] The application is **allowed.**

b] The applicant – *Shekhar s/o Nambaji Sakhare* shall be released on bail, in connection with Crime No. 397/2022 registered with Police Station Pachpavali, District Nagpur, for the offences punishable under Sections 409, 420, 120B read with Section 34 of the Indian Penal Code, 1860, and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishment Act, 1999), on executing P.R. Bond of Rs. 1,00,000/- with one solvent surety in the like amount.

c] The applicant shall attend the concerned police station twice in a week on 1st and 15th day of every month between 10.00 a.m. to 01.00 p.m., and the investigation officer shall record his presence.

d] The applicant shall not leave the jurisdiction of Nagpur City without prior permission of the District Court, Nagpur.

e] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The criminal application is **disposed of.**

[**URMILA JOSHI-PHALKE, J.]**