2024:BHC-NAG:4084

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

CRIMINAL APPLICATION (ABA) NO.525 OF 2023

Akhil s/o Vishamber Dayal Sharma
Vs.
State of Maharashtra, Through Police Station Officer, Buldana Cyber Police Station, District Buldhana
with

CRIMINAL APPLICATION (ABA) NO.527 OF 2023

Sumit s/o Ramdas Hajare
Vs.
State of Maharashtra, Through Police Station Officer, Buldana Cyber Police Station, District Buldhana

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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. S. A. Thakkar, Advocate h/f Mr. A. J. Thakkar, Advocate for applicants.
Ms. Swati Kolhe, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 01/04/2024

1. Both the applications are filed by the applicants for grant of pre-arrest bail in connection with Crime No.21/2023 registered with Buldhana Cyber Police Station, District Buldhana for the offences punishable under Sections 420, 406, 409 read with Section 34 of the Indian Penal Code and Sections 66(C) and 66(B) of the Information Technology Act.

2. The accusation against the present applicants is on the basis of report lodged by one Deepak Bhagwan Misalkar, who alleged that on

08.05.2023, one Madhukar Tonde and co-accused Saket Kulkarni induced him to invest a Crypto Currency Platform by name Bitcoine Hedge and BULLBIT FINETCH SOLUTION Private Limited with the promise to return profit of 20 to 30 percent. It was alleged that the informant initially got return upto Rs.4,84,488/- and thereafter, the said company stopped paying any profit. It is further alleged that due to this, the informant has lost his money and he is duped. On the basis of the said report, police have registered the crime against the co-accused Madhukar Tonde and Saket Kulkarni, who came to be arrested.

3. Learned Counsel for the applicant submitted that as far as the applicant namely Akhil Vishwamber Dayal Sharma is concerned, who was Ex-Director of the said company. He never met the informant and there was no inducement by him to the informant for investing the amount. As far as his custodial interrogation is concerned, which is not required. He further submitted that he has not received any monitory benefit by the said transactions. His custodial interrogation is not required and therefore, he be released on pre-arrest bail.

4. Regarding the another applicant Sumit Ramdas Hajare he submitted that he is neither the office bearer of the said company, nor he induced the

informant or other investors to invest the amount. He is not the beneficiary of the said transactions. In view of that, his custodial interrogation is not required and therefore, he be protected by granting pre-arrest bail.

5. After hearing the learned Counsel for the applicant and learned APP for the State, perused the investigation papers. It reveals from the investigation papers that during the investigation, the Investigating Officer has collected the information from which it reveals that BULLBIT FINETCH SOLUTION is not the authorized company as no sanction or authorization is given by Reserve Bank of India to the said company. From the recitals of the FIR, it reveals that on the say of the co-accused Madhukar Tonde and the co-accused Saket Kulkarni, the informant has invested the amount. Initially, he has received the returns, but subsequently, the company has stopped giving returns to the informant and therefore, he lodged the report. During the investigation, the investigating Officer has recorded the statements of various investors from which it reveals that they have also invested amount in the BULLBIT FINETCH SOLUTION Private Limited. Thus, it is apparent that the applicant namely Akhil Vishwamber Dayal Sharma, who was the office bearer of the said company with the help of the other co-accused induced various persons to invest the amount and the said amount was not returned back to the investors

and the various investors are duped. The Investigating Officer has also collected the account details from which it reveals that Sumit Hajare one of the applicant has received Rs.49,47,090/- in his account. Whereas, Akhil Sharma has received Rs.3,53,324/- in his account. The said amounts are received by the present applicants in their accounts. Thus, the applicants have obtained the investment without any authorization of the Reserve Bank of India and on false inducement the investors were duped.

6. There is no dispute as to the facts that the other co-accused Saket Kulkarni is already released on bail under Section 439 of the Code Criminal Procedure. In both the applications, the applicants are seeking pre-arrest bail. Considering the applicants are the beneficiary of the said transaction, they have received the amount which are invested by the investors in their bank accounts, their custodial interrogation is required to ascertain the role played by them. In view of that, they have not made out the case of pre-arrest bail. Admittedly, the considerations for grant of pre-arrest bail and the bail under Section 439 of the Code of Criminal Procedure are different. The *prima facie* case is made out against the present applicants to show their involvement in the alleged offence. In view of that, the applications for grant of pre-arrest bail deserves

to be rejected. Accordingly, I proceed to pass following order.

<u>ORDER</u>

The Criminal Application (ABA) Nos. 525/2023 and 527/2023 both are rejected.

(URMILA JOSHI-PHALKE, J.)

Sarkate