2024:BHC-NAG:4083

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

CRIMINAL APPLICATION (ABA) NO.524 OF 2023

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

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

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

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

1. Apprehending the arrest at the hands of police in connection with Crime No.21/2023 registered with Buldhana Cyber Police Station, District Buldhana for the offences punishable under Section 420, 406, 409 read with Section 34 of the Indian Penal Code and Sections 66(C) and 66(D) of the Information Technology Act, the applicant 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 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. During the investigation, the name of the present applicant revealed and therefore, the applicant apprehending the arrest and approached this Court for grant of pre-arrest bail.

4. Learned Counsel for the applicant submitted that the applicant is not at all connected with this Crypto Currency Platform or the company above named. He further submitted that there is no transaction between the informant and the present applicant. He has not received any amount from the company. Thus, he is not at all concerned with the alleged offence. Now, the investigation is already carried out. The co-accused are already arrested and released on bail. In view of that, the applicant be released on bail in the event of arrest.

5. Learned APP strongly opposed the said application on the ground that during the investigation, it revealed that the said company BULLBIT FINETCH SOLUTION is neither authorized by the Reserve Bank of India nor any permission was

obtained to run the said company. It further reveals that the Investigating Officer issued the communications to Federal Bank being Nodal agency since the BULLBIT FINETCH SOLUTION company is having their account in Federal Bank, Chennai. The account details from the said bank are received and on verifying the bank statement of the said bank it reveal that the various investors have deposited their investments through online on the said account. Later on, it is also revealed that said amount was transferred to the accounts of Saket Kulkarni, Sumit Hazare and present applicant and other co-accused. The investors also handed over the cash to the local agent namely Madhukar Tonde, who used to hand over the said cash further to the accused No.2 Saket Kulkarni. She further submitted it reveals from the investigation papers that huge amount has been transferred to the account of the present applicant and he is a beneficiary of the said online scam and therefore, custodial interrogation of the present applicant is required.

6. Having heard the learned Counsel for the applicant and learned APP for the State, perused the investigation papers. From the recitals of the investigation papers, it reveals that on the inducement of the co-accused, the informant as well as other prosecution witnesses have invested their amounts. The Investigating Officer has also obtained the details regarding the account of the company as

well as the bank account of the co-accused Saket Kulkarni. It reveals from the investigation papers that from the account of the said Saket Kulkarni, the amounts are transferred to the account of the present applicant. At this stage, the applicant has not pointed out any other transaction except this, due to which the amount was received by him in his account from the co-accused. Admittedly, co-accused Saket Kulkarni is already released on bail, but he was released on bail under Section 439 of the Code of Criminal Procedure. As far as the consideration for grant of anticipatory bail are concerned, which are different than the bail under Section 439 of the Code of Criminal Procedure.

7. Here in the present case, the several investors are duped by the co-accused and the present applicant. The present applicant is one of the beneficiary as he has received the amount from the account of the co-accused Saket Kulkarni. Considering the reasons and the investigation carried out the involvement of the present applicant is revealed. Thus, no case is made for grant of anticipatory bail. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass following order.

ORDER

The application is rejected.

(URMILA JOSHI-PHALKE, J.)

Sarkate