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

CRIMINAL APPLICATION (BA) NO. 920 OF 2024

Mohammad Jawad Farook Bora @ Bharat Suleman **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. C.B. Barve, counsel for the applicant.
Mr. N.B. Jawade, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 18/11/2024.

1. By this application being moved under Section 483 of the Bharatiya Nagaraik Suraksha Sanhita, the applicant seeks regular bail, in connection with Crime No. 440/2023 registered with Police Station Dhantoli for the offence punishable under Sections 420, 406, 419, 467, 468, 471, 171, 120(b) of the Indian Penal Code, 1860.

2. The report is lodged on 07/10/2023 stating that, the complainant has been duped by all the accused persons. It is further alleged that he was informed that one company namely Extreme Networks India Private Limited obtains the investment and if the complainant invest an amount in the said company with three months, he would get 15 to 20 % more returns. On believing the said statement, the complainant invested the amount. All the accused persons including the present applicant informed the complainant that they are agents of the said company, and after that, they gave a fake demand draft

on various occasions to the complainant. In all, the complainant was duped of an amount of Rs. 5,39,50,000/- from 07/12/2022 to 03/02/2023. The cheque given by the complainant were also misused by the applicant and the other co-accused. On the basis of said report, police have registered the crime against the present applicant.

3. Learned counsel for the applicant submitted that as far as the present applicant is concerned, who was not at all concerned either with the company namely Extreme Networks India Private Limited or Shivam Logistics. He submitted that no offence is made out against the present applicant, the applicant is arrested on 19/01/2024 and since then he is behind bar. Considering now, investigation is completed, the further incarceration is not required. In view of that, he be released on bail.

4. Learned APP strongly opposed the said application and submitted that the complainant was duped on the pretext of obtaining the money on investment, and on depositing the amount by the complainant, it was transferred to the Shivam Logistics, and from Shivam Logistics, present applicant has received the amount. It is submitted that present applicant is received Rs. 1,10,00,000/- on 19/12/2022 and Rs. 20,00,000/- on 11/01/2023. He further invited my attention towards the SDR report and submitted that, stay of the applicant was for three years in Nagpur, and

during that period, he has obtained the money for the Shivam Logistics in cash. Thus, considering the role of the present applicant, and the similar type of the offence was registered vide crime No. 457/2023. Thus the modus operarndi of the present applicant reveals from the investigation papers. In view of that, the application deserves to be rejected. Learned APP further placed reliance in the case of ***Prabhakar Tewari vs State of U.P. and another in criminal appeal No. 152 of 2020 (arising out of Special Leave Petition (Crl.) No. 9207/2019) with Criminal Appeal No. 153 of 2020 (arising out of S.L.P. (Crl.) No. 9209/2019) decided on 24/01/2020***.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers, it reveals that after registration of the crime and during the investigation, the various documents are seized by the investigating agency. The receipts which are given to the informant shows that the amount was accepted from him and the receipts were given to him. The CDR reports are also on record shows the communication between the present applicant and other co-accused, as well as it also reveals that for some days, the present applicant stayed at Nagpur and accepted the amount from investors in cash. In the alleged transaction, the applicant has received more than of Rs. 1 Crore 30 Lakhs rupees from the said transactions. The accounts statements sufficiently shows that he has received the amount from the Shivam Logistics. The

involvement of the applicant is also revealed in the scam and it reveals that the scheme was floating by the said company, only with intent to deceive the investors, and amounts were accepted from the investors and they were duped.

6. It was submitted by learned counsel for the applicant that now investigation is completed and charge-sheet is filed. The involvement of the present applicant in the crime is in economic offence. It is well settled position of law that jurisdiction to grant bail has to be exercised, and with regard to the facts and circumstances of the case. Factors to be taken into consideration are (a) nature of the acquisitions and severity of the punishment (b) reasonable apprehension of tampering of the witnesses (c) reasonable possibility of securing the presence of the accused (d) character, behavior and standard of the accused.

7. In the case of ***Satender Kumar Antil Versus Central Bureau Of Investigation & Anr. [2022 LiveLaw (SC) 577]***, wherein the aspect of the economic offences is considered, and it is held that the gravity of the offence, the object of the Special Act, and the attending circumstances are a few of the factors to be taken into consideration along with the period of sentence. The grant of bail depends upon the facts of the concerned case.

8. The Hon'ble Apex Court while dealing with the offence involving conspiracy to commit economic offence of huge magnitude in the case of ***Y.S.Jagan Mohan Reddy vs C.B.I [(2013) 7 SCC 439]*** laid down following para-meters;

> *a] 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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> *b] 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 interests of the public/State and other similar considerations.*

9. Moreover, the Hon'ble Apex Court in the case of ***State Of Gujarat vs Mohanlal Jitamaljiporwal & Anr [(1987) 2 SCC 364]***, held as under;

> "The entire Community is aggrieved if the economic offenders who ruin the economy of the State are not brought to books. 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 with-out 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"

10. In the present case, considering the circumstances under which the crime is committed, *modus operandi* of the applicant and other accused showing involvement in the conspiracy to commit economic offence of huge magnitude. The criminal antecedents that similar offences are registered against the present applicant, the application deserves to be rejected. In view of that, I proceed to pass the following order.

The criminal application **rejected.**

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