



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

CRIMINAL APPLICATION (BA) NO. 945 OF 2024

Dilip s/o Ramavatar Jain 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. R.U. Vyawhare, counsel with Mr. Y.J. Shekh, counsel for applicant.
Mr. S.V. Narale, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 12/11/2024.

1. Applicant came to be arrested on 19/03/2021, in connection with Crime No. 1514/2017 registered with Police Station Chandrapur City, District Chandrapur for the offence punishable under Sections 406, 420 read with Section 34 of the Indian Penal Code, 1860; and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (hereinafter referred to 'M.P.I.D. Act').

2. The crime is registered on the basis of a report lodged by the informant, Kacharu Keshav Jagtap, alleging that the applicant is Director of M/s Skylark Land Developers and Infrastructure India Ltd., along with eight other Directors and the Regional Manager. The office of the same is situated at Chandrapur. It is alleged that the applicant and the other co-accused induced the various citizens to invest the amount in their company on the ground that they would receive the handsome returns on

the investment within five years. The informant initially invested Rs.1,35,000/- and became an agent of the company. He has also collected the amount of Rs. 5,05,655/- from the other investors and invested the same in the company. The several investors have invested the amount in the said company. 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 allegation against the present applicant is concerned, which are baseless. He submitted that he has been behind bars since the date of arrest, i.e. 19/03/2021, and there is no substantial progress in the trial. The applicant has already undergone more than four years as an undertrial prisoner, and there is no progress in the trial. Considering the same and in view of the decision of the Hon'ble Apex Court in the case of ***Javed Gulam Nabi Shaikh vs State of Maharashtra [2024 SCC OnLine SC 1693]***, the applicant be released on bail.

4. Learned APP strongly opposed the said application and submitted that the applicant, who is the Director of the Company, along with other co-accused, induced many investors to invest the amount. The amount which is involved is in crores of rupees, and it may increase as the investigation is still going on. He submitted that though there were restrictions of the

company, the investments are collected by the company, and the applicant is the Director of the Company. Considering the allegation against the applicant and considering the fact that several investors are invested their amount by investing their hard-earned money. If the applicant/accused is released on bail, he would not be available for trial, and trial would be held up. In view of that, the application deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers. As far as involvement of the present applicant is concerned, it reveals from the investigation papers. The order passed by the SEBI also shows that there were restrictions on the company of the present applicant to obtain the investment, but committing the breach of the said order, the investments are collected. Thus, as far as merits of the matter is concerned, there is a prima-facie case against the present applicant to show his involvement in the alleged offence. The another ground raised by the applicant is that since 19/03/2021, he is behind bars, and there is no progress in the trial. The punishment provided for the offence punishable under Section 420 is upto the seven years, whereas for the offence punishable under Section 3 of the MPID, the punishment provided is six years. The half of the period of punishment is already spent by the present applicant behind the bar.

6. In view of the observation of the Hon'ble Apex Court in the case of ***Javed Gulam Nabi Shaikh (supra)***, wherein it is observed that if the State or any prosecuting agency, including the court concerned, has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution, then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

7. In view of the observations of the Hon'ble Apex Court and considering the fact of the present case that the applicant is behind bars from 19/03/2021 and applicant has already spent half of the period. Considering the same, the applicant has made out a case for grant of bail, in view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order:

- a] Criminal Application is allowed.
- b] The applicant - Dilip Ramavatar Jain, shall be released on bail, in connection with Crime No. 1514/2017 registered with Police Station Chandrapur City, District Chandrapur for the offence punishable under Sections 406, 420

read with Section 34 of the Indian Penal Code, 1860; and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) 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 month on 1st and 15th of every month till conclusion of the trial.
- d] The applicant shall not leave the jurisdiction of the Chandrapur District without prior permission of the District Court Chandrapur.
- e] The applicant shall surrender his pass-port if he is having before the Special Court under the M.P.I.D. Act.
- f] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- g] The breach of any condition would lead to cancellation of bail.

- h] The applicant shall also furnish his mobile number and address wherein he is intending to reside along with his address proof.

[URMILA JOSHI-PHALKE, J.]