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

CRIMINAL APPLICATION (ABA) NO.757 OF 2023

Mangal s/o Mewalal Tiwari
Vs.
State of Maharashtra, Through Police Station Officer, Ambazhari Police Station, District Nagpur

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

Mr. K. H. Dodani, Advocate for applicant.
Mr. S. S. Hulke, APP for respondent/State.
Mr. P. P. Kotwal, Advocate for assist to prosecution.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 09/01/2024

1. By this application, the applicant is seeking pre-arrest bail in connection with Crime No.569/2023 registered with Police Station, Ambazhari, District Nagpur for the offences punishable under Sections 420, 406, 409, 506 and 120-B read with Section 34 of the Indian Penal Code.

2. The applicant is apprehending arrest at the hands of police, as crime is registered on the basis of report lodged by Vinod Puranchand Gupta, who alleged that in the year 2019 he got acquaintance with one Kishor Zam to Satish Chaddha. He is also owner of 17 R land at Koradi Road, Bokhara and was intending to sell it. In that respect he had a discussion with his friend Satish Chaddha and Satish Chaddha introduced him with

Kishor Zam. Kishor Zam informed him that he is constructing a building scheme worth of Rs.500 crores. In the year 2020, there was lockdown due to the Covid pandemic situation, and he developed the good relationship with said Kishor Zam. On 11.09.2021 said Kishor Zam has called him in his office wherein present applicant and other co-accused were present. Present applicant and co-accused Santosh Lande, Kishor Zam informed him about the Korbit Crypto currency coin scheme and told him that if he invest the amount in the said scheme, he will get double returns within six months. Present applicant has also represented him that, he has also invested the amount and induced him for investing the amount. He further alleged that Kishor Zam given him assurance that his amount will be doubled and he will not suffer a loss in the said investment. As per the allegations, present applicant and other two accused Kishor Zam and Santosh Lande asked him Rs.11,38,000/- for investing the said amount, as he was not holding the cash, he obtained the amount from his friend Patel. The allegation further shows that on 15.09.2021 he has handed over Rs.53,62,000/- in presence of one Ajay Batra to Kishor Zam, Devansh Zam, Mangal Tiwari, and Santosh Lande. Thus, he has handed over total amount of Rs.1,60,00,000/- to the present applicant and other co-accused. As per his allegation, though he has invested huge amount, no returns are received by him and the amount which he has invested is also not received by him. Thus, he is duped by the present applicant and other co-accused. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant vehemently submitted as far as the present applicant is concerned, who has not received a single penny from the informant, the amount was handed over to the Santosh Lande and Devansh Zam not to the present applicant. He further submitted that as per the allegation, the amount was handed over to the present applicant in presence of Ajay Batra whose statement is not recorded by the Investigating Officer during the investigation and other witnesses have not named the present applicant to show his involvement in the alleged offence. Now, investigation is completed and charge-sheet is filed. Nothing is to be recovered from the present applicant, therefore his custodial interrogation is not required and hence, he be released on anticipatory bail, in the event of his arrest.

4. He placed reliance on **State of Maharashtra and another Vs. Naresh Rajeshwarrao Patil and others** reported in **2015 (2) Bom.C.R. (Cri.) 590** and **Amit Anand Pai Raikar @ Amit Pai Vs. State of Goa** reported in **2014 SCC OnLine Bom 521** and submitted that wherein

this aspect is taken into consideration and the applicant therein was released on anticipatory bail.

5. Learned APP strongly opposed the application on the ground that huge amount is invested by the informant and the present applicant who has induced the informant and also obtained some amount from the informant for the investment. There is a *prima facie* material against the present applicant. His custodial interrogation is required as amount is to be recovered. He further submitted that during investigation the present applicant was absconding. Considering all these aspects, as the amount involved in the present crime, the application deserves to be rejected.

6. Learned Counsel for the informant who is assisting the prosecution has also raised strong objection on the ground that huge amount of the informant is involved in the alleged crime. The applicant is the person who has induced and also obtained the amount and the informant has not received any returns after the investment. It is a hard earned money of the informant which is invested and the informant was duped as he has not received any amount from the said investment. Custodial interrogation of the present applicant is required and prays for rejection of the application.

7. Having heard learned Counsel for the applicant and learned APP for the State and learned Counsel for the informant and perused the investigation papers. From the recitals of the FIR it reveals that, there is specific allegation against the present applicant that present applicant and other two co-accused initially obtained Rs.11,38,000/- from the informant for the investment and on 15.09.2021 again Rs.53,62,000/- is obtained by the present applicant and other co-accused from the informant. It is further alleged that, it was the present applicant along with the co-accused who represented before the informant that they have also invested the money and induced the informant to invest the amount. Therefore, huge amount Rs.1,60,00,000/- is invested by the informant with the present applicant and other co-accused. Admittedly, the statements of the witnesses show that the co-accused Habib who belongs to State of Karnataka and co-accused Santosh Lande and Kishor Zam are his partners at the same time, at this stage, allegation levelled against the present applicant make out the *prima facie* case against him. While considering the anticipatory bail application, the considerations are different such as, the nature of the allegations made against the present applicant, the availability of the present applicant for the trial and the role played by the present applicant. From the recitals of the FIR, it reveals that applicant is involved in economic offences wherein the informant was duped for

Rs.1,60,00,000/-. Considering the gravity of the offence and nature and the circumstances under which the alleged crime is committed *prima facie* case is made out against the present applicant and not inclined to use the discretion in favour of the present applicant. In view of that, application deserves to be rejected. Accordingly, I proceed to pass following order.

ORDER

Application is rejected.

(URMILA JOSHI-PHALKE, J.)

Sarkate