2024:BHC-NAG:2750

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

CRIMINAL APPLICATION (BA) NO. 1127 OF 2023

Giriraj A. Pandey V/s State of Maharashtra and another.

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's order	Court's or Judge's Order

Mr. Y.A. Kullarwar, counsel for the applicant.
Mr. A.G. Mate, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 01/03/2024.

1. The present application is filed by the applicant for grant of regular bail, in connection with Crime No. 620/2019 registered with Police Station Ram Nagar, District Chandrapur for the offence punishable under Sections 409, 420 read with Section 34 of the Indian Penal Code, 1860 and also under section 3 of the Maharashtra Protection of the Interest of the Depositors Act, 1999. The applicant/accused came to be arrested on 05/06/2021.

2. The accusation against the present applicant is on the basis of report lodged by the complainant Vilas Chintaman Undirwade who is the investor as well as an employee of the Company, alleging that the present applicant being the Managing Director of the Company namely M/s G. Life Company and Green Vihar Developers and Colonizer. The applicant by sharing the common intention with the other co-accused hatched the conspiracy and agreed to accept the deposits in various schemes of the said company by assuring

that the investors would get a higher rate of interest on their returns, but the present applicant being the Managing Director of the company failed to keep the said promise. The company provided the returns till August-2017 and thereafter, the returns were suddenly stopped therefore, the complainant approached to the Police Station and lodged the report.

3. It is alleged that the applicant who is the Managing Director of the company assured and obtained the investment and by way of said invested amount, purchased the various properties and thereby committed an offence. The investment to the tune of Rs. 3,18,49,528/- are duped. On the basis of said report, the police have registered the crime against the present applicant.

4. The learned counsel for the applicant submitted that as far as the allegations are concerned, the applicant is the Managing Director of the said company and various investors have invested the amount. It is reveals that the investors have not received the returns, they have received returns till 2017. Due to some financial condition of the company, the returns are not given, and therefore, this crime came to be registered against him. The applicant is behind bar since the date of his arrest i.e. on 05/06/2021. Now, the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. He further submitted that at the most, the act attributed to the present applicant is that he has accepted the invested amount, but not repaid it back. It is a civil transaction and no criminal intention can be attributed

to the present applicant. He submitted that considering now the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. Therefore, he prays for grant of bail.

5. Learned APP strongly opposed the application on the ground that the involvement of the present applicant is in the economic offence. The several investors are duped by the company and the investors have not received any returns and though they have invested the amount. Considering the nature of the allegation and the huge magnitude of the amount involved, the application of the present applicant deserves to be rejected.

6. Having heard learned counsel for the applicant and learned APP for the State, perused the investigation papers. It reveals that, during the investigation, the statements of various investors are recorded which shows that the applicant who running the companies namely M/s G. Life Company and Green Vihar Developers and Colonizers Limited. After the investment of the amount, the certificate of the allocation was also issued by the company to the various investors. The statements of the investors also shows that they have invested the amount as there was an assurance by the company that the investors would get interest at the higher rate. Thus, it is apparent that the investors have invested the amount with an intention to get the higher returns.

7. Admittedly, the involvement of the present applicant in the alleged crime which is economic offence. Now, the

investigation is also completed and charge-sheet is filed. The issue regarding the economic offence is dealt by the Hon'ble Apex Court in the case of ***Satender Kumar Antil V/s Central Bureau of Investigation and another, reported in 2022 LiveLaw (SC) 577*** and observed that the question for consideration is whether the economic offence should be treated as a class of its own and or otherwise, and this issue has already been dealt with this Court in the case of ***P. Chidambaram vs Directorate Of Enforcement reproted in (2020) 13 SCC 791***. The Hon'ble Apex Court further held that the gravity of the offence, the object of the Special Act and the attending circumstances are few of the factors to be taken note of, along with the period of sentence. After all, an economic offence cannot be classified as such, as it may involve various activities and may differ from one place to another. Therefore, it is not advisable on the part of the Court to categorize all the offences into one group and deny bail on that basis.

8. In ***P. Chidambaram Vs Directorate of Enforcement*** referred (supra) wherein in para-23 which is reproduced is as under:

> *23. Statement of Objects and Reasons to the Prevention of Money- Laundering Act, 2002 recognises that money laundering poses a serious threat not only to the financial systems of the countries but also to their integrity and sovereignty. PMLA is a special enactment containing the provisions with adequate safeguards with a view to prevent money- laundering. The Preamble to the Prevention of Money-Laundering Act, 2002 states that:*

> *"An Act to prevent money-laundering and to provide for confiscation of property derived from, or involved in, money-laundering and for matters connected therewith or incidental thereto."*

9. In the case of ***Sanjay Chandra V/s CBI (2012) 1 SCC 14*** wherein also, the aspect of the economic offence is considered and in the Hon'ble Apex Court held that coming back to the facts of the present case, both the Courts have refused the request for grant of bail on two grounds, the primary ground is that offence alleged against the accused persons is very serious involving deep rooted planning in which, huge financial loss is caused to the State exchequer, the secondary ground is that of the possibility of the accused persons tempering with the witnesses. In the present case, the charge is that of cheating and dishonestly inducing delivery of property and forgery for the purpose of cheating using as genuine a forged document. The punishment for the offence is imprisonment for a term which may extend to seven years. It is, no doubt, true that the nature of the charge may be relevant, but at the same time, the punishment to which the party may be liable, if convicted, also bears upon the issue. Therefore, in determining whether to grant bail, both the seriousness of the charge and the severity of the punishment should be taken into consideration.

10. Admittedly the grant or refusal to grant bail lies within the discretion of the Court. The grant or denial is regulated, to a large extent, by the facts and the circumstances of each particular case. But at the same time, it is also well

settled that bail is a rule and jail is an exception. Right to bail is not to be denied merely because the involvement of the accused is in an economic offence. The primary purpose of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State from the economic burden.

11. The Hon'ble Apex Court in the case of ***Satender Kumar Antil V/s Central Bureau of Investigation and another,*** **referred (supra)** in para-46 observed that we are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge-sheet is already filed before the Special Judge, CBI, New Delhi.

12. The similar is the fact here, the accused is charged with the economic offence, and the charge-sheet is already filed and investigation is already completed. Therefore, the presence in the custody is not necessary for further investigation. Considering the same, the application for grant of bail, deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order:-

a) The criminal application is **allowed.**

b) The applicant- **Giriraj A. Pandey** shall be released on bail, in connection with Crime No. 620/2019 registered with Police Station Ram Nagar, District Chandrapur for the offence punishable under

Sections 409, 420 read with Section 34 of the Indian Penal Code, 1860 and also under section 3 of the Maharashtra Protection of the Interest of the Depositors 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 once in a month on 1st of every month and the investigating officer shall record his presence.

d) The applicant shall attend the proceedings before the learned trial Court regularly, and shall not leave India without prior permission of the Court.

e) The applicant shall surrender his Passport before the Trial Court.

f) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

The criminal application is **disposed of.**

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

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