



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

CRIMINAL APPLICATION (ABA) NO. 244 OF 2024

Gopal Singh Tomar V/s 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. Ashish Deep Verma, counsel with Mr. A.Vyas, counsel for the applicant.
Mr. U.R.Phasate, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 12/04/2024.

1. Apprehending the arrest at the hands of police, in connection with Crime No. 98/2023 registered with Cyber Police Station, Nagpur City, District Nagpur for the offence punishable under Sections 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code, 1860 and Sections 66(c) and 66(d) of the Information Technology Act, 2000, the present applicant approached this Court for grant of pre-arrest bail.

2. Learned counsel for the applicant submitted that as far as the allegation against the present applicant is concerned, it is only to the extent of some guidance to the investors to invest the amount in PLC Ultima Crypto Currency run by Platincoin Private Limited. He submitted that the recitals of the FIR shows that no benefit was received by the present applicant, but the only role is attributed to him that he guided the investors to invest the amount by mentioning that they can get the profit seven times if they deposit the amount.

Thus, at the most, the act of inducement can be attributed to the present applicant. In support of his contention, he placed reliance on the order passed by the ***High Court of Gujrat at Ahmedabad in Criminal Misc. Application (for Anticipatory Bail) No. 20094/2023*** wherein in similar facts, the Gujrat High Court has protected a similarly situated person by granting anticipatory bail. He invited my attention towards the General Terms and Conditions of PLC Ultima which are mentioned in the said order. He submitted that the present applicant is similarly situated and immediate custodial interrogation is not required. Considering that the only role attributed to him is of inducement and prays for protecting him by grant of ad-interim protection.

3. Learned APP strongly opposed the said application on the ground that the only inducement on the part of the present applicant is not there, but the investors have lost their amount, and therefore, custodial interrogation of the present applicant is required. He further submitted that he has to ascertain from the investigation papers regarding the role of the present applicant. At this stage, no case is made out for grant of pre-arrest bail.

4. Having heard learned counsel for the applicant and learned APP for the State, perused the recitals of the FIR and the various documents filed on record. I have also perused the general terms and conditions of the PLC Ultima, which read as under:-

8(D) No guarantees / modification, restriction of services of PLC Ultima / transfer to third parties

(1) Your access to the website and the services of PLC Ultima is at your risk.

(2) PLC Ultima is authorized to modify the website and services offered by PLC Ultima free of charge without prior announcement or liability.

(3) PLC Ultima reserves the right to limit the use of services including the ability of contacting other members, through the website if PLC Ultima is of the opinion that such violate contractual or legal obligations or the services are otherwise abused.

(4) PLC Ultima does not guarantee that within the scope of the competent jurisdiction under your national law it is legal for you to use the services of PLC Ultima or to advertise such or to participate in any activities of PLC Ultima; that access to the PLC Ultima website is at any time faultless and interference-free, timely, or secure and that defects are rectified.

(5) PLC Ultima reserves the right to transfer, assign, sublicense or pledge, in whole or in part, its business, individual assets hereof or individual rights and obligations under this User Agreement to third parties without prior notice, provided that the third party also complies with applicable contract and other laws.

5. On perusal of the recitals of the FIR, the allegation against the present applicant is only to the extent that he has induced and obliquely guided the investors to invest the amount on the ground that they can get the benefit 7 times if they invest the money. Thus, it reveals that the investors have invested the amount, considering the fact that they can get profit. Thus, at the most, the only role attributed to the

present applicant is to the extent of inducement. From recitals of the FIR, it nowhere reveals that he is the beneficiary of the said amount.

6. While considering the anticipatory bail, it is well settled that, the factors to be borne in mind, while considering the bail application; whether there are any criminal antecedents against the present applicant; whether the prima facie ground or reasonable ground to believe that the accused had committed the offence; nature and gravity of the offence; severity of the punishment in the event of conviction; and whether there is any apprehension of fleeing away from justice. Considering the considerations for the grant of anticipatory bail, at this stage, there is no apprehension to held that the present applicant could not be available for the investigation, and as far as the part of the interrogation is concerned, which can be taken care of by imposing certain conditions on the present applicant. In view of that, the prayer for grant of ad-interim protection deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- a] In the event of his arrest, in connection with Crime No. 98/2023 registered with Cyber Police Station, Nagpur City, District Nagpur for the offence punishable under Sections 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code, 1860 and Sections 66(c) and 66(d) of the Information Technology Act, 2000, the applicant- **Gopal Singh**

Tomar, shall be released on ad-interim anticipatory bail on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.

- b] The applicant shall attend the concerned Police Station as and when required on receipt of the notice from the investigating officer in advance and shall cooperate with the investigating agency.
- c] The investigating officer is permitted to intimate the present applicant to attend the Police Station through manual notice as well as WhatsApp notice.
- d] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- e] The applicant shall not leave the jurisdiction of the Buldhana District without prior permission of this court.
- f] Learned Additional Public Prosecutor waives service of notice on behalf of non-applicant/State.
- g] Stand over after **two weeks**.

[URMILA JOSHI-PHALKE, J.]