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

CRIMINAL APPLICATION (ABA) NO. 511 OF 2024

Suraj s/o Madhukar Sawarkar 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. H. D. Dangre, counsel for the applicant.
Mr. C.L. Lokhande, APP for the non-applicant/State.
Mr. Devendra Galande, counsel for Intervenor.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 15/07/2024.

1. By preferring this application, the applicant is seeking pre-arrest bail, in connection with Crime No. 94/2024 registered with Police Station Nandanvan, Nagpur for the offence punishable under Sections 406, 418, 420, 120-B read with Section 34 of the Indian Penal Code, 1860; Section 66-D of the Information and Technology Act, 2000; and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

2. The crime is registered on the basis of a report lodged by Vikram Laxman Bajaj, alleging that he got acquaintance with the present applicant on 20/06/2022. At the relevant time, the applicant had provided in detailed information regarding the investment and how he can earn the profit by investing in Online Forex Trading. It is alleged that the applicant was engaged with IX Global Company was busy in giving education with regard to Online Forex Trading, Share Market and Crypto Market. He informed that

IX Global is an American Company engaged in providing training in Online Forex Trading and provides 5 to 15% profits per month on the amount deposited through computer software, which was also called as Artificial Intelligence as Robot Trading. For providing these services, IX Global Company takes fees of Rs. 9,800/- per month for an investment below Rs.4 Lacks and if the investment is above Rs. 4 Lacks then fees of Rs. 11,500/- per month.

3. Thus, considering the assurance of the present applicant and the assurance of the other, the informant as well as his friend have invested the amount. Initially, he received the bonus by engaging the subscribers along with him, and subsequently, he has not received any bonus, and also could not receive the invested amount. Therefore, he approached the police and lodged the report. On the basis of same, the police have registered the crime.

4. Heard Mr. H.D. Dangre learned counsel for the applicant. He invited my attention towards various documents and submitted that, at the most, the applicant is the only person who informed the informant about the scheme, not more than that. He also invited my attention towards the letter issued by the Reserve Bank of India (RBI) and submitted that the applicant was not aware about this letter. Then there was a press release also, wherein there is a reference of the FIR lodged at Kolkata, i.e. Hare Street Police Station, Kolkata. He submitted that the names of all accused against whom the Enforcement Directorate (E.D.) has taken

action are mentioned. The name of the present applicant is not mentioned in the FIR.

5. He also submitted that while considering the bail application, of these accused person, it is observed that custodial interrogation of accused namely Prasenjit Das and Shailesh Kumar Pandey revealed that they along with one person namely Tushar Patel had collected money from public/investors in the name of forex trading through TP Global FX platform, public/investors used to deposit their money in the form of investment for forex trading to earn higher rate of returns on investment made. For doing online Forex Trading, investors/public also need to pay a monthly subscription charge. They made their deposits/investments in the accounts of firms, which appeared on the TP Global FX platform. Such accounts which appeared on the TP Global FX platform, were of dummy firms, which were opened by Prasenjit Das and Tushar Patel with the help of Shailesh Kumar Pandey in Canara Bank, PNB, ICICI Bank. These dummy firms were created on paper and had no business activities as declared in their Trade License. The accounts of such dummy firms were mapped on TP Global FX platform, which appeared to the public at the time of deposit/investment in the name of forex trading.

6. Thus, he submitted that this observation of the Special Court at Kolkata specifically shows that it was the chain of the investment, if one person invests the amount, he has to engage one subscriber, and the subscriber has to

engage another subscriber, and on investment, the first subscriber used to get the bonus of adding the subscribers. Thus, the role of the present applicant is only to the extent on adding the subscribers i.e. IX Global.

7. He submitted that the observation of the Special Court, Kolkata, itself shows that the owners Prasenjit Das and Shailesh Kumar Pandey, had collected the money from the public/investors in the name of Forex Trading. As far as the present applicant is concerned, he is not in any manner concerned with this firm, and therefore, initially the applicant was protected by the Sessions Court also by granting ad-interim protection.

8. Learned APP strongly opposed the said application on the ground that the involvement of the present applicant reveals, and invited my attention towards the observation of the Sessions Court while rejecting the bail application of the present applicant.

9. Learned counsel Mr. Devendra Galande seeks time to file the application for intervention as well as to file his reply on record.

10. Considering the fact that, from the documents produced on record reveals that, at the most, as an inducement and not more than that. From the order passed by the Special C.B.I. Court at Kolkata, it reveals that the applicant is not concerned with the fake firms, the dumpy firms, or the scheme was not also initiated by the present

applicant. At the most, his role is to the effect that he has played an active role in a meeting and asked the various subscribers to subscribe the amount. At this stage, immediate custodial interrogation of the present applicant is not required, therefore, the applicant can be protected by granting ad-interim protection till the intervenor files an application and the learned APP files his reply on record. Accordingly, I proceed to pass the following order:

a) In the event of his arrest, in connection with Crime No. 94/2024 registered with Police Station Nandanvan, Nagpur for the offence punishable under Sections 406, 418, 420, 120-B read with Section 34 of the Indian Penal Code, 1860; Section 66-D of the Information and Technology Act, 2000; and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, the applicant – Suraj s/o Madhukar Sawarkar, 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 on each Friday between 10.00 a.m. to 01.00 p.m. before the Economic Offences Wing, Nagpur and shall cooperate with the investigating agency.

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

d) Issue notice to the non-applicant, returnable on 20/07/2024.

e) Learned Additional Public Prosecutor waives service of notice on behalf of non-applicant/State.

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