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

CRIMINAL APPLICATION (ABA) NO. 518 OF 2024

Dr. Nilesh s/o Nareshrao Raut
Vs.
State of Maharashtra, Thru. PSO, PS Nandanwan, Nagpur

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders.

Mr. Akshay A. Naik, Advocate for applicant.
Ms. H.N. Prabhu, APP for non-applicant/State.

CORAM : SMT. URMILA JOSHI PHALKE, J.
DATE : 16.07.2024

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 and 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 co-accused on 20.06.2022. At the relevant time, the co-accused had provided detailed information regarding the investment and also informed, how he can earn the profit by investing in Online Forex Trading. It is alleged that the co-accused was engaged with IX Global Company which was dealing in giving education with regard to the Online Forex Trading, Share Market and Crypto Market. It is further informed to the informant 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. During investigation the name of the present applicant, who was the member of the WhatsApp group was also added as an accused in the present crime. It is alleged that against the present applicant that she has also induced the other investors to invest the amount and the investors are duped by the present applicant and the other co-accused.

4. Considering the assurance of the co-accused and the present applicant and the assurance of the other informant as well as his friend have invested the amount. Initially, the informant has 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, the informant approached to the police and lodged the report. On the basis of same, the police have registered the crime.

5. Heard Mr. Naik, learned counsel for the applicant. He submitted that as far as the present applicant is concerned to whom only role attributed is that he was a member of WhatsApp group, who are the subscribers in the said scheme. Thus, he submitted that in fact the present applicant is also victim as he has also invested the amount and he could not get any benefits. He invited my attention towards various documents and submitted that at the most, the applicant is the person, who informed the subscribers about the scheme. He also invited the 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.) have taken action are mentioned. The name of the present applicant is not mentioned in that FIR.

6. He also submitted that while considering the bail application, of those accused persons, it is observed that by the Special Court and custodial interrogation of the accused namely Prasenjit Das and Shailesh Kumar Pandey is required and the involvement of one person namely Tushar Patel, who 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 who 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.

7. Learned counsel submitted that from the observations of the Special Court at Kolkata which 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 on adding the subscribers. Thus, the role of the present applicant is only to the extent of adding the subscribers i.e. IX Global.

8. He submitted that the observation of the Special Court, Kolkata, itself shows that the owner of the said firms are the Prasenjit Das and Shailesh Kumar Pandey. As far as the present applicant is concerned, he is not in any manner concerned with those firm, he is the person who added the subscriber, in view of that, his custodial interrogation is not required. The co-accused namely Suraj Madhukar Sawarkar to whom the similar role is attributed is already protected by this Court by granting ad-interim protection.

9. Learned APP strongly opposed the said application on the ground that the involvement of the present applicant reveals, and therefore, the prayer for grant of ad-interim protection deserves to be rejected.

10. Considering the fact that and from the documents produced on record which reveals that, at the most, as an inducement and not more than the role of present applicant reveals. However, it is necessary to go through the investigation papers. 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 or the dumpy firms, or the scheme which was initiated by the said Prasenjit Das and Shailesh Kumar Pandey along with one Praful Patel. Thus, considering the role of present applicant immediate custodial interrogation is not required, in view of that, the applicant can be protected by granting ad-interim protection. Further order, in view of that, I proceed to pass the following order : -

a) In the event of the 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 and 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 – **Dr. Nilesh S/o Nareshrao Raut**, shall be released ad-interim aniticipatory 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 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.

11. The application be kept along with Criminal Application (ABA) No.511/2024 and be listed on **20.07.2024**.

(SMT. URMILA JOSHI PHALKE, J)

Prity