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

CRIMINAL APPLICATION (ABA) NO. 529 OF 2024

Surendra Madhukar Sawarkar **Vs** 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. A.A. Dhawas, counsel for the applicant. Ms. T.H. Udeshi, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/07/2024.

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 offences punishable under Sections 406, 420, 120-B, 418 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 applicant is the brother of the co-accused Suresh Madhukar Sawarkar. Learned counsel for the applicant submitted that applicant is neither the office bearer of the said Online Forex Trading but he is the subscriber. The crime is registered on the basis of report lodged by Vikram Laxman Bajaj, alleging that he got acquaintance with the co-accused Suresh Madhukar Sawarkar on 20/06/2022, at the relevant time, the co-accused 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 which was dealing with the 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 by the co-accused, the informant as well as friends have invested the amount. Initially, he received the bonus but subsequently, he has not received either bonus and invested the amount, and therefore, he approached the police and lodged the report.

4. Learned counsel for the applicant submitted that as far as the present applicant is concerned, he is the brother of the co-accused and subscriber in the chain. Thus, he is the person, who has invested his amount but he is also victim in the said scam. He submitted that considering the role of the present applicant, custodial interrogation is not required. In view of that, applicant be protected by granting ad-interim protection.

5. Learned APP strongly opposed the said application and submitted that the mobile phone of the present

applicant is used in the transaction, and for the investigation purpose, his custodial interrogation is required as the mobile phone is to be seized and therefore, the prayer for grant of ad-interim protection deserves to be rejected.

6. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers, from which it reveals that the offence is registered against the co-accused namely Prasenjit Das, Tushar Patel and Shailesh Kumar Pandey at Kolkata. These persons have created dummy firms 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 an investment in the name of Forex Trading.

7. It further reveals that as the part of the scheme, the investors were induced to invest the amount and therefore, investors are invested the amount. The investor who invest the amount has to engage one subscriber, and subscriber has to engage the 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 to the said IX Global. Thus, considering the fact that and the documents produced on record it reveals that, at the most as an inducement and not more than that, the role of the present applicant reveals, he is the subscriber.

8. From the order passed by the C.B.I. Court at Kolkata, it reveals that applicant is not concerned with the fake firms and the dummy firms and the scheme was not also initiated by the present applicant. At the most, his role to the effect that, he has played an active role in inducing the person to invest the amount. As far as the custodial interrogation part i.e. the seizure of the mobile phone is concerned, can be taken care of by imposing certain conditions on the present applicant. In view of that, I proceed to pass following order:

a) In the event of his arrest, in connection with Crime No. 94/2024 registered with Police Station Nandanvan, Nagpur for the offences 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 – Surendra Madhukar Sawarkar, 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 on each Friday between 10.00 a.m. to 01.00 p.m. before the Economic Offence Wing, Nagpur and shall cooperate with the investigating agency.

c) The applicant shall produce his mobile phone on Monday i.e. on 22/07/2024 before the investigating officer and this period shall be considered as his custody for the purpose of Section 27 of the Indian Evidence Act.

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

e) Issue notice to the non-applicant, returnable after **two weeks.**

f) Learned Additional Public Prosecutor waives service of notice on behalf of non-applicant/State and seeks time to file reply.

g) Leave is granted to the present applicant to add the Economic Offence Wing as a necessary party.

[URMILA JOSHI-PHALKE, J.]

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Signed by: Mr. R.K. NANDURKAR
Designation: PA To Honourable Judge
Date: 20/07/2024 16:43:38