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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ BAIL APPLN. 1879/2023 & CRL.M.A. 1795/2024 (Early hearing)

MAYANK PALAN@ MANISH HARISH THAKKAR

..... Petitioner

Through: Mr. Akshat Srivastava, Advocate.

versus

STATE ..... Respondent

Through: Mr. Amol Sinha, ASC (Crl.) for the State with Mr. Kshitiz Garg, Mr. Ashvini Kumar & Ms. Chavi Lazarus, Advocates.
SI Rahul, P.S. EOW.

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

<u>O R D E R</u>

% **05.04.2024**

1. The present application under Section 439 read with Section 482 of the Cr.P.C. seeks regular bail in case FIR No. 18/2022, under Sections 419/420/406/465/468/471/120B of the IPC, registered at P.S. Economic Offences Wing.

2. The case of the prosecution as per status report authored by Sh. Ghanshyam, ACP, Sector-7, EOW, Delhi, is as under:

> "1. That petitioner has filed the present petition for grant of regular bail in this case.
> Mr Bhavdip Jhala informed complainants that they can invest on the advice of Mayank Palan in trading and can get good returns. The Complainants further alleged that they were informed that the petitioner/accused Mayank

Palan was an authorized agent of SEBI for trading on behalf of others and managed their portfolios. That Mayank Palan exchanged mobile numbers with them and started sending the profits gained from investing in the share market. That Mayank Palan also induced victims by representing that he has offices in Delhi and also overseas. That the petitioner got opened their trading accounts in the firm namely South Asian Stocks Limited and invested money therein. That petitioner/accused Mayank Palan asked victims to share their IDs & Passwords for trading on their behalf but resulted into loss. That the accused Mayank Palan and her mother Mrs. Sharda Thakkar, Bhavdip Jhala & Subhash Shihora are also involved in the conspiracy and they all cheated Rs 1.6 Cr as their hard-earned money on false assurances petitioner/accused Mayank Palan asked victims to share their IDs & Passwords for trading on their behalf but resulted into loss. That the accused Mayank Palan and her mother Mrs. Sharda Thakkar, Bhavdip Jhala & Subhash Shihora are also involved in the conspiracy and they all cheated Rs 1.6 Cr as their hard-eared money on false assurances and diverted the money for personal benefits.

FACTS EMERGED DURING INVESTIGATION:

3. During investigation, notices u/s 91 Cr.P.C were issued to M/s South Asian Stocks Limited which maintained the trading account of victims. In its reply M/s South Asian Stocks Ltd admitted to open trading accounts of victims and provided Profit and Loss account statement which shows that all the trading accounts of the victims resulted in loss.

It further shows that the money of victims were invested in the Futures and Options segment of Share Market, which is a risky segment in trading world.

4. During investigation, address of petitioner/accused Mayank Palan in East of Kailash, Delhi was visited, which was found to be a hotel from where accused Mayank Palan induced the victims. Notice was given to Hotel Manager Mr. Santosh Kumar Singh, who confirmed that accused Mayank Palan had stayed in the hotel from 04-04-2021 to 20-12-2021. Mr. Santosh Kumar Singh stated in his statement that petitioner had surreptitiously left the hotel leaving his belongings in the hotel room.

5. During investigation, it has also been learnt that accused Mayank Palan had switched off his mobile numbers which were given to victims. On 01/07/2022, notices u/s 41A Cr.P.C were sent on all the available addresses of accused Mayank Palan, but the same returned undelivered. Further three notices U/s 41A Cr.P.C were sent on his new mobile no. 9899960161, which was activated after switching of the previous mobile number and even on his email id i.e., mayankhpalan@gmail.com. Despite service of the notices, the petitioner/ accused Mayank Palan did not turn up to join

investigation and kept evading. Thereafter, petitioner/accused Mayank Palan was arrested on 25/12/2022 from Jaipur.

INTERROGATION OF ACCUSED MAYANK PALAN

6. Petitioner/Accused Mayan Palan was arrested from Hotel Comfort Inn, Jaipur. Initially, during interrogation, the petitioner/ accused disclosed his identity as Mayank Palan S/o Hiten Palan R/o H-1208, Safal Parishkaar, born and brought up in Gujarat. However, details disclosed did not match with the real identity of petitioner. Thereafter, on 07/01/2023, two days' police custody remand of accused was obtained and then during interrogation accused Mayank Palan disclosed that his real name is Manish Harish Thakkar S/o Harish Hirjl Thakkar R/o B- 111, Kalpataru Residency, Sion East, Sion, Mumbai. He also disclosed that he was debarred by the Securities and Exchange Board of India (SEBI) to access the securities market or buy, sell or otherwise deal in the securities market, either directly or indirectly for a period of seven years.

7. During investigation, it has revealed that petitioner/accused Manish Harish Thakkar is a wanted Proclaimed Offender in FIR No. 151/2013, U/s 420/465/467 /468/471/120B/507 IPC, PS Azad Maidan, Mumbai. Accused Mayank Palan @ Manish Harish Thakkar had also got incorporated three companies in the name of M/s Unicorp Financial Services Pvt Ltd, M/s Ingenious Properties Pvt Ltd, M/s Sharmay Properties Pvt Ltd. Further during investigation, reply from Registrar of Companies, Mumbai has also confirmed that accused Mayank Palan @ Manish Harish Thakkar S/o Harish Hirjibhai Thakkar had formed the company against which criminal case was registered.

8. During investigation, documents i.e driving license, PAN Card, Passport of petitioner, which were seized from his possession were verified and upon verification, it was found that driving license in name of petitioner/accused Mayank Palan vide P/L No- MH-02-2001/35921 doesn't exist in the records of the Regional Transport Office, Andheri, Mumbei, As per the record of the Transport Authority, it has been confirmed that D/L No. MH-02-2001/35921 belongs to Mr Ram Govind P Yadav and the driving license of petitioner Mayank Palan is forged. During further course of investigation, as disclosed by petitioner, record of K.J. Somaiya College, Mumbai was obtained and as per the record, it has been confirmed that real name of petitioner is Manish Harish Palan S/ o Harish Hirji Palan.

9. During investigation, it has also been confirmed from the reply of Securities and Exchange Board of India (SEBI), that petitioner Manish Harish Thakkar (PAN : ACTPT8377N) was banned to access the securities market or buy, sell or otherwise deal in the securities market either directly or indirectly for a period of seven years, to associate himself with any listed

company or company intending to raise money from the public or any registered intermediary, in the capacity of a director, key management personnel or partner for a period of seven years and to mobilize funds from the public or offer any portfolio 5 management services for a period of seven years w.e.f February 02. 2018.

10. In addition to the above investigation, it has been confirmed from the reply of Income Tax Department that the petitioner got issued another PAN Cards once he was banned from SEBI."

3. Learned counsel for the applicant submits that the latter was engaged in trading and the complainant and other persons had invested their money with him. It is further submitted that it was an ongoing transaction between the applicant and the alleged victims. It is pointed out that a sum of Rs. 52 Lakhs has been transferred from the bank account of the complainant to said alleged victims and the same reflects that the present applicant was genuinely pursuing his business and the loss to the complainant and other alleged victims was not on account of cheating but because of market forces.

4. *Per contra*, learned Additional Standing Counsel, on instructions from the Investigating Officer, submits that the present applicant was not having any license from Securities and Exchange Board of India (SEBI) to trade in securities. He further submits that the applicant was previously banned from SEBI to deal in trading of the securities which is why he was using PAN cards in different names. He further submits that the applicant has been named as an accused in another case FIR No. 151/2013 registered at P.S. Azad Maidan, Mumbai. In another case, under Section 138 of the Negotiable Instruments Act, 1881, filed against the applicant, he has been declared as an absconder.

5. Heard learned counsel for the parties and perused the record.

6. On a pointed query from the Investigating Officer, with regard to the

embezzlement of money by the applicant, he submits that no such diversion of money has been reflected from the records to show that the money invested by the complainant and the victims was embezzled by the applicant. The money invested through the applicant resulted in losses. It is a matter of record that the chargesheet in the present case was filed on 13.03.2023 and the charges against the present applicant have been framed by the learned Trial Court. It is also a matter of record that the prosecution has cited 33 witnesses in the chargesheet and till date, out of these only 2 witnesses have been examined therefore, the trial is likely to take time to conclude.

7. A perusal of the nominal dated 05.07.2023 reflects that the applicant was arrested on 25.12.2022 and he has been in custody since then.

8. In view of totality of the facts and circumstances of the case, the present applicant is allowed and the applicant is directed to be released on bail on his furnishing a bail bond of Rs. 1,00,000/- with two sureties of the like amount subject to the satisfaction of the learned Trial/Link Court and following terms and conditions:

i. The applicant shall not leave India without prior permission of the learned Trial Court.

ii. The applicant shall report to SHO of the concerned police station on every Friday at 04:00 PM and the concerned officer is directed to release him by 05:00 PM after recording his presence and completion of all the necessary formalities.

iii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.

iv. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.

v. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.

vi. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.

9. The application is allowed and disposed of accordingly.

10. Pending application(s), if any, also stand disposed of.

11. Needless to state that nothing stated hereinabove is an opinion on the merits of the case.

12. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.

13. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

APRIL 05, 2024/bsr

Click here to check corrigendum, if any