



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1494 OF 2023

Mohd. Saber Mohd. Yakub Ghochi
@ Ghanchi

....Applicant

VERSUS

The State of Maharashtra

.....Respondent

.....

Mr. R. N. Dhorde, Senior Counsel instructed by Mr. V. R. Dhorde,
Advocate for Applicant.

Mr. A. M. Phule, APP for the State.

CORAM : ADVAIT M. SETHNA, J.

DATE : 1 JULY, 2025.

P. C. :

1. Heard Mr. R. N. Dhorde, learned Senior Counsel instructed by Mr. V. R. Dhorde, Advocate for the Applicant and Mr. Phule, the learned APP for the State.

2. The proceedings relate to Crime No. 0028/2023, registered by the Taluka Jalna Police Station, District Jalna. The First Information Report (for short '**FIR**') has been lodged on 16 January 2023 at 20.49 hours. The alleged offences are under Sections 420, 120-B, 504, 506 read with 34 of the Indian Penal Code (for short '**IPC**') and under Section 3 of the Maharashtra Protection of

Interest of Depositors Act (for short '**MPID Act**'). The occurrence of the offence is shown from 2 March 2022 to 16 January 2023. The Informant is one Rishikesh Kale aged 31 years, one of the investors.

CASE IN THE FIR :

3. Briefly, the case of the prosecution in the FIR relates to the three accused persons as named in the FIR, who mainly in capacity of agents lured/induced the investors to invest in the Global Enterprise Pvt. Ltd. in the Global Digital Crypto Currency. It is pursuant to such investments that the investors have been cheated as they had lost their hard earned money invested in such Crypto Currency. In such facts and circumstances, the FIR has been lodged.

SUBMISSIONS :

4. The learned Senior Counsel Mr. Dhorde would first submit that the Applicant is protected by order dated 19 October 2023. Pursuant to such order, the Applicant has scrupulously complied with the terms and conditions imposed in such order. He would urge that the Applicant infact is one of the persons who in the capacity of investor has invested in the said Global Digital Crypto Currency. For such reason, it cannot be said that he has cheated

other persons when he himself has undertaken investment in the said Crypto Currency. According to him, an amount of Rs. 12,00,000/- was paid to accused No. 5 (accused No. 1 in FIR) Kiran Kharat who has infact invested the amount in the said Crypto Currency of the company. According to him, there is no dispute that such amount of Rs. 12,00,000/- as taken from the investment was given to Kiran Kharat for the purpose of investment. Mr. Dhorde would draw attention of the Court to the fact that the proceedings under the MPID Act were initiated and as a result thereof the assets of the Applicant were seized to the extent of Rs.91,21,480/-. Thus, by such attachment the State has duly secured itself to the extent of much higher amount of Rs. 91,21,480/-. He would also submit that said co-accused Kiran Kharat has been released on regular bail by order of this Court dated 22 August 2023. He would submit that the charge-sheet has been filed on 27 April 2024. Much water has flown since registration of the FIR. The investigation has thus culminated. For such reason, the interim order dated 19 October 2023 be confirmed and in such facts and circumstances there can be no requirement of custodial interrogation.

5. On the other hand, the learned APP would vehemently oppose the Application. He would not dispute that pursuant to the lodging of the said FIR on 16 January 2023, the charge-sheet has been filed on 27 April 2024. The learned APP would further submit that after the charge-sheet, a supplementary charge-sheet dated 6 July 2023 is also filed. However, he would urge that this Applicant is also an Agent similarly placed as accused Kiran Kharat. The accused persons including the present Applicant had a *modus operandi* by which they lured vulnerable investors to invest in the said Crypto Currency. He would place reliance on the statements of about seven investors recorded during the investigation who have stated to have lost amount to the extent of Rs. 24.83 Lacs by investment made in this Crypto Currency floated by the company at the instance of this Applicant. The learned APP would not dispute that the properties worth Rs. 91,21,480/- have been attached as far as the present Applicant is concerned. However, he would submit that the offence reported is of grave and serious nature. In his submission, custodial interrogation of the present Applicant is not only required but also imminent in the given facts. He would thus pray that the Anticipatory Bail Application be rejected.

FINDINGS :

6. Heard the learned Advocates for the parties and with their assistance I have perused the record.

7. At the very outset, it is pertinent to refer to the order dated 19 October 2023 by which the Applicant was protected. Certain terms and conditions were imposed in the said order. It is not disputed by the prosecution that such terms and conditions have been duly complied with by the Applicant. He has attended the police station as directed. This would indicate that this Applicant has joined the investigation. It is further not disputed that the charge-sheet has also been filed on 27 April 2-24 resulting in the culmination of the investigation. The prosecution would not controvert that even though an amount of Rs. 12,00,000/- or in any event not more than Rs.24,00,000/- which is allegedly misappropriated by way of cheating investors by this Applicant, as observed by this Court in the order dated 19 October 2023, the interest of the investigating agency is duly secured by attachment of Applicant's properties to the tune of Rs. 91,21,480/- which continues as on date. As submitted by Mr. Dhorde, learned Senior Counsel for the Applicant, the Crypto Currency is susceptible to price / value

fluctuations governed by market forces. This cannot be branded as an act of cheating the investors by the Applicant. *Prima facie*, such submission cannot be discarded in the given facts before the Court. At this stage of the proceedings, as also observed by the Supreme Court, the Court ought to be concerned with the detention of the Applicant at the investigation stage as the Court is not testing the legality of the case instituted against him. Even if the learned APP is correct in his submissions, the fact remains that the Applicant has joined the investigation and there is no grievance against him of acting in breach of the order dated 19 October 2023, in any manner whatsoever. Thus, in my view, a prima facie case has been made out by the Applicant. It cannot be disputed that investigation is a right of the prosecution. However, custodial interrogation can not definitely be a norm. it would depend on the factual matrix in a given case. In the given factual complexion, the custodial interrogation of the Applicant is not warranted. The Anticipatory Bail Application thus deserves to be allowed. The order dated 19 October 2023 is hereby confirmed. In my view, the following order would serve the ends of justice.

ORDER

- (i) In the event of arrest of the applicant Mohd. Saber Mohd. Yakub Ghochi @ Ghanchi, in connection

with C.R. No. 0028/2023, registered with Taluka Jalna Police Station, Dist. Jalna, for the offences punishable under Sections 420, 120-B, 504, 506 read with 34 of the IPC and Section 3 of the MPID Act, the applicant is directed to be released on bail on furnishing PR bond in the sum of Rs. 15,000/- (Rupees Fifteen Thousand Only) with one solvent surety in the like amount.

(ii) The applicant shall attend the concerned Police Station as and when required by the Investigating Officer. He is further directed to co-operate the investigation.

(iii) The applicant shall furnish details of residential address and other contact details such as the mobile number etc. to the concerned police station. If there is any change in the contact details, the same shall be immediately informed to the concerned police station.

(iv) The applicant shall not leave the jurisdiction of the Court without prior permission of the Court, until further orders.

(v) He shall not contact and/or influence the witness/es and/or tamper with the evidence in any manner whatsoever.

8. The Anticipatory Bail Application is allowed in above terms.

9. It is clarified that the above observations are *prima facie* and restricted to the adjudication of this anticipatory bail application.

(ADVAIT M. SETHNA)
Judge