2025:BHC-AS:9492

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 3443 OF 2024

MOHAMED HUSAIN MAQSOOD SHEKHA ...APPLICANT
VS
STATE OF MAHARASHTRA AND ANR ...RESPONDENTS

Adv. Khatri Mohamed Adil a/w. Adv. Nazneen Khatri, Sagar Samel and Tasmiya Memon for the Applicant.
Mr. Ajay S. Patil, APP for the State.
Adv. Vaibhav Sugdare for Respondent No.2.
PI S. V. Ajgaonkar, Mumbra Police Station.

CORAM : RAJESH S. PATIL, J.

DATE : FEBRUARY 24, 2025.

P.C. :

1. The applicant has filed the present application under 482 of the Bhartiya Nagrik Surakhsa Sanhita, 2023 apprehending his arrest in C. R. No. 2081 of 2024 registered with Mumbra Police Station, Thane City for the offences punishable under Sections 406, 409, 420 and 503 of the Indian Penal Code, 1860, Sections 66(C) and 66(D) of Information Technology Act, 2000 and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishment) Act, 1999.

2. The prosecution case has been specifically stated in the complaint lodged which forms part of the FIR. The present applicant is accused no. 5. Accused Nos. 2, 8 and 9 have been arrested. The role of all the accused persons is mentioned in the FIR, so also in the statements recorded.

3. The learned counsel for the applicant submits that the applicant is a young boy of 23 years, and he is an agent similar to the complainant of the company called 'Oris Team Poland'. There is a locking period in the agreement, hence, although the applicant has been cheated by the other accused persons, he is unable to file any complaint or a suit against those accused.

4. The charge-sheet has been already filed against three accused persons. The applicant is working in the film industry as a body double of actor Ranbir Kapoor. In order to maintain his status in the film industry he has purchased a high end car 'BMW'. The said car is purchased on a loan. Due to the present FIR being filed and the applicant being arraigned as an accused, the police have frozen the bank account of the applicant.

5. The applicant is facing hardship due to the bank account being frozen and in the said bank account, the applicant's hard earned money of Rs.17 lakhs is balance. The applicant has no role to play in the fraud being committed by the accused nos. 1 to 3. The applicant is ready to co-operate with the police and his custody is not at all required. It is submitted that the Oris Coin as of today approximately values at Rs. 11. It is submitted that no doubt the present applicant had told people to invest in Oris Coin, however, people have got their money back including the present informant.

6. Learned counsel for the Applicant also referred to certain orders passed by this Court in crypto currency matters. He also referred the judgment of the Hon'ble Supreme Court in the case of ***Internet and Mobile Association of India v. Reserve Bank of India [AIR 2021 SC 2720]***.

7. The learned APP for the State submitted that there are eleven accused persons, out of which four are in jail in crime committed and FIR lodged in another case. The Investigating Officer, on verification, has found that the company called 'Oris Team Poland', is not in existence and it is a fake company. The website of the said company appears to be fake. The fraud as of now estimated to be of Rs.17 crores and as of today, it appears that 1781 people have invested in this fraudulent company. The victims are as of today more from locality of Mumbra. It appears that an FIR has also been lodged in the area of Pimpari, Pune and also in Goa against the said company. A photograph of the applicant with his car has been obtained by the Investigating Officer which confirms that he owns a high end car 'BMW'. The syndicate of the present accused persons appears to cheat the investors. Four of the accused are also in jail in connection with another crime. If the present applicant is granted pre-arrest bail, there is high likelihood that he would influence the witnesses and tamper with the prosecution evidence. He further submits that the flow chart which is submitted before this Court specifically mentions as to how the transactions were conducted, wherein, the role of the present applicant has been specifically shown. There are photographs to that effect also. Additionally, learned APP has also submitted a chart showing internal calls between all the accused persons. He submits that as far as the present applicant is concerned, he has made more than 4000 calls and he was also in touch with accused no.1 (Sandip Kandle).

8. Mr. Sugdare, learned counsel for Respondent No. 2 submits that the applicant is one of the accused who had induced people to invest money in the Oris Coin. He submits that although an argument was made on behalf of the applicant that money have been repaid to the investors. The said statement is completely false statement because of except paying 10% amount to few of the investors, the balance amount has not been returned back. He submits that the value of the Oris Coin was earlier shown as Rs. 85/- now, the value as per the applicant's own statement is around Rs. 11/- in valet.

9. I have heard the counsel for both the sides and have gone through the FIR and the documents produced on record. The role of the present applicant is limited to the chargesheet and the witnesses statement, which forms part of the police record. The witness Saee Ishwar Shivkar has taken the name of the present applicant along with other accused in her statement recorded on 7 December, 2024. Similarly, the witness Mohammad Shaman Khan has also taken the name of the applicant as an accused along with other accused. Similarly, witness Shahir Bana Phiroz, Abdul Ashfak Hadi Lambe and Danish Afjal Katlariwala have taken the name of all the accused who have cheated them including that of the present applicant. Photographs produced by the APP shows that the present applicant was on the stage/platform and was actively inducing people to invest in the Oris Coin. The learned APP submits that fake website was created by the accused persons showing that they are the part of the Oris Team Poland. But, the prosecution has found that the accused persons have no connection with the original Oris Team Poland. They have in fact tried to copy various elements and to show that they are the part of the original Oris Team Poland.

10. The Chart produced by the police shows that there were different accused persons who were part of the team which committed the fraud, in which the name of the present accused can be seen. Similarly, the present applicant has made 824 calls to accused Ravishankar Thakur who has been arrested. He has also made around 227 calls to accused Avinash Singh who has also been arrested. The Applicant has also made 1410 calls to Rohit Londhe who is absconded. There is no denial that the applicant has not told the people to invest in the crypto currency but the defence is that he in fact has been cheated, as he has invested around Rs. 2,00,000/- in Oris Coin. The applicant claims to have invested Rs. 2,00,000/- in oris coin, asserting that he is the victim rather than offender.

11. The allegations against the applicant involves a well-planned cryptocurrency which has led to substantial financial losses for multiple victims. Prima facie, on going through the material placed on record indicates that the applicant was actively involved in inducing the investors to invest in a fraudulent company.

12. Moreover, considering the gravity of the offence and the large scale financial implications, there is a need for thorough custodial interrogation to unearth facts/modus operandi.

13. Prima facie, the police chart demonstrates the direct communication with the main accused persons and applicant's participation in promoting cryptocurrency fraud. This further indicates that the present applicant's role is not merely of a investor but a crucial role in execution of such fraud.

14. The judgment referred by the applicant in the case of ***Internet and Mobile Association*** (supra) is regarding the circular issued by the Reserve Bank of India, wherein, the Supreme Court has held that the said circular needs to be set aside. According to me, the said judgment does not help the present applicant who is seeking an anticipatory bail from this Court. The orders referred by the present applicant before me are passed in anticipatory bail application, where the facts are not as similar to the present proceeding. The counsel for the Applicant was not able to show me similarity of the facts of the present proceedings and the orders referred by him. In view of this there is no merit in the anticipatory bail application. It will be necessary for the police to investigate the present proceeding, therefore, the custody of the present applicant is necessary. Hence, the **anticipatory bail application stands rejected**.

15. I express my gratitude for the able assistance rendered by Advocate Mr. Vaibhav Sugdare representing the Informant.

(RAJESH S. PATIL, J.)