IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 223 OF 2025

Senthilnathan Govindaraj ..... Applicant

VERSUS

State of Maharashtra & Anr. ..... Respondents

Mr. Akash Warang for the Applicant.

Ms.Rutuja A. Ambekar, A.P.P. for the State.

Mr. Jigar S. Shah a/w. Mr. Ronak A. Shah, Ms.Asba A. Khatib for the Respondent No.2.

Mr. Ananta Gaikwad, API, Bhayandar Police Station.

CORAM : RAJESH S. PATIL, J.

DATE : 13th FEBRUARY, 2025

P.C. :-

1. This application is filed for pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with FIR No. 0213 dated 16th February, 2024 registered with Bhayandar Police Station, District : Mira-Bhayandar, Vasai-Virar for the offence punishable under Sections 420, 406 and 34 of the Indian Penal Code, 1860.

2. The present anticipatory bail application has been filed by only one of the three directors of the company styled as M/s.Chirmata Digital Services Private Limited. In the FIR it has been stated that the informant was added in the WhatsApp group named as “Bharat Club Intermediate Review E”. In the said WhatsApp group, three persons were admins. The WhatsApp group was created by a person having his mobile number +917629894947. Two persons viz. Mr. Khemraj Zaria and Mr. Bharat Singh used to supply information to the group members. In all there were 29 members. They both used to give information to the group members as to whether they should invest in the share market. The informant invested around Rs.61,60,000/- as per the advice and inducement and on his seeking a refund of this amount according to him, the said refund was not granted. However, after much pursuance, the sum of Rs.9,98,000/- has been paid by the present applicant from his personal account. Since the entire amount has not been received by the present informant, he has lodged an FIR.

3. It is the submission of the applicant that he is not aware about the fact as to who had bought in the money and where the money has been gone. He submits that the company in which the applicant is a director, is not the only company in which the amounts are transferred by various persons. In fact, there are totally nine such companies. However, the present applicant is concerned with only one company viz. M/s.Chirmata Digital Services Private Limited. He submits that as of today he is not aware about the whereabouts of the other two directors of the said company and as to what they have done for the police to call it as fraud committed on various persons. He submits that in order to get out from the present FIR, he has bonafidely returned back a sum of Rs.9,98,000/- to the present informant as per the claim of the present informant as regards the company M/s.Chirmata Digital Services Private Limited is concerned. He submits that the applicant is ready to co-operate with the investigation officer and also ready to submit his laptop for the said purpose.

4. The learned A.P.P. has opposed this anticipatory bail application on the ground that the applicant is a beneficiary of the fraud which was committed on various investors. As of now the police has received 37 complaints and the number is likely to rise. The company in which the applicant is a director, its bank account on 7th June, 2024 had the balance only Rs.50,000/- and on 10th June, 2024 the said amount had increased to Rs.2,57,00,000/-. She submits that if there is a sudden change in the bank account of the company, any prudent man is bound to contact the bank, so also, the police, to inform them there is unusual money which are coming to their account and the police would have then hold enquiry to that effect. However, the applicant has not entered into any kind of such exercise. Hence, it is necessary that the applicant be taken into custody in order to find out the money trail.

5. Mr. Shah, learned counsel appearing for the first informant submits that only a sum of Rs.9,98,000/- has been received back by the informant whereas the amount invested by the informant

was Rs.61,60,000/-. He submits that initially individuals like the informant are added to the WhatsApp group. In the said WhatsApp group, there are atleast 3 – 4 persons who actually belong to the applicant group. After some time these 3 – 4 persons start showing that they have received a heavy benefits out of the investment made by them. They show a rosy picture to the persons like the first informant who gets carried away. He submits that in the said group after a while fake portal is created which shows that a heavy benefits were given to the investors with a fake account which shows that the monies are growing in a faster rate. However, when the investor wanted to withdraw the money, the same was not possible. Only then, the persons like the present informant got knowledge that the something wrong is happening in this company. He submitted that hence the anticipatory bail application should be rejected.

6. I have heard the learned counsel for the parties. When the applicant realize that a sum of Rs.2,57,00,000/- on 10th June, 2024 was credited to the bank account of the company in which

he is a director, did nothing to complaint about the said fact to the police or to the bank. This itself shows that the applicant had full knowledge that un-accounted monies are coming into the bank account of the company and the source of such monies were not known. As of date, the entire Rs.2,57,00,000/- has been managed way from the bank account. The applicant is not able to answer as to where the entire amount of Rs.2,57,00,000/- has gone.

7. It is a matter of common knowledge that whenever a large chunk of money goes out of the bank account or comes into the bank account, the bank sends a message to the account holder on the registered mobile number. In the statement recorded of the present applicant on 2nd October, 2024, he has submitted that he had different mobile numbers and on 7th June, 2024, there was a telephone call from the bank manager which he did not pick up and thereafter there was a message to him regarding unusual amount coming to his account. However, the present applicant choose to remain silent. Except the applicant changed his sim-

card for the reasons best known to him, there is no explanation from the applicant on the said issue. As regards various other complaints being lodged against the company in which the applicant is a director, there is no satisfactory answer coming forward from the applicant.

8. The learned A.P.P. has also handed over a list of various complaints being received from all over the country against the applicant and the company in which the applicant is a director. The applicant has also referred to the judgment of Hon'ble Supreme Court in ***Arnesh Kumar vs. State of Bihar in Criminal Appeal No. 1277 of 2024 dated 2nd July, 2014*** and specifically relied upon at paragraph no.8. In ***Arnesh Kumar*** (supra), the Hon'ble Supreme Court has held that taking into consideration Section 41(1) of the Code of Criminal Procedure, that a person accused of offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years with or without fine, cannot be arrested by the police officer unless they are satisfied that such person had committed

the offence. In the present proceedings, the investigation officer is satisfied that a custody of the present applicant is necessary. The other two directors of the company are absconding and have not filed any anticipatory bail application in this Court.

9. Therefore, for a detailed investigation, the custody of the present applicant would be necessary so that he will also reveal why he was using different different sim cards and when the monies started coming into his account of his company, the reasons for not informing or his action, against such bank entries has not been disclosed. It is also necessary to know that after 10th June, 2024 who has withdrawn or where the amount of Rs.2,57,00,000/-has been transferred. The applicant has not given any explanation to it.

10. Taking into consideration the facts as narrated above, according to me, no case is made out. So also, it is necessary to take into consideration that there are three more C.R. filed against the present applicant.

11. Therefore, I find no merit in the present anticipatory bail application and **the anticipatory bail application stands rejected.**

[RAJESH S. PATIL, J.]