2025:BHC-NAG:3365

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

CRIMINAL APPLICATION (BA) NO.1259 OF 2024

Akshay Wasudeo Khobragade
Vs.
State of Maharashtra, Through Police Station Officer, Ramnagar Police Station, District Gondia

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Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

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Mr. S. P. Bhandarkar, Counsel for the applicant.
Mr. M. K. Pathan, APP for the non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.
RESERVED ON : 24.03.2025
PRONOUNCED ON : 02.04.2025

1. The applicant came to be arrested on 31.08.20204 in connection with Crime No.180/2024 registered with Ramnagar Police Station, District Gondia for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code and under Section 66D of the Information Technology Act.

2. The crime is registered on the basis of report lodged by Kiran Satyen Chaukase, who alleged that on the pretext of share trading, she was insisted to invest the amount of Rs.1,69,38,222/- and thereafter, she was duped as she has not received any returns against the said involvement. On the basis of the said report,

police have registered the crime against the present applicant.

3 Heard learned Counsel for the applicant, who submitted that as far as the involvement of the present applicant is concerned, which is only to the extent that he has shared one link and allegedly received the pecuniary benefits from the investors. He submitted that the applicant was arrested and now the investigation is already completed, charge-sheet is filed. In fact, the applicant is not Admin of the WhatsApp group involved in the said crime. He never interacted with the informant in any manner whatsoever. He is not the beneficiary of the proceeds of the crime also. The only allegation against him is that he has obtained some bank accounts which were used by the main accused for siphoning the amount. Now the investigation is completed, further incarceration of the applicant is not required. In view of that, the applicant be released on bail.

4. Learned APP strongly opposed the said application and submitted that the informant, who was in Singapore was added in awards group called Ao1 State Street Retail and Industrial Club which was in respect of DMAT Trading Group. There was a message in a said group that most of the people are not able to join the group, and therefore, new group was found by name Robert Martinez Stock

Market Club. As she was interested in learning the share market trading, therefore, she joined the said WhatsApp group on 13.03.2024. Thereafter, she was asked to download the link for share market trading. She opened the account in the said application, and thereafter the Admin of the said group having mobile number 9956499269 lured her on the promise to pay 10 to 20 % profit on the amount invested in a US Stock, Block Trade, IPO and insisted the complainant to invested the amount of Rs.1,69,38,222/-, and thus, she is duped.

5. During the course of the investigation it has been revealed that the present applicant was actively involved in the said crime. The complainant has initially transferred the amount of Rs.37,75,606/- on 13.06.2024 and Rs.9,10,000/- on 14.06.2024 from her account in Indian Overseas Bank which was linked with the mobile number of the co-accused Rakesh Dongre. It further revealed that the accused No.2 and the present applicant procured other three bank accounts and present applicant has paid an amount of Rs.1,00,000/- to each of such account holders for supplying the current bank account number and the mobile numbers linked with such account. The mobile phone of the present applicant was seized. It further revealed that he was using other two mobile numbers 9637155696 and 9322123588.

He has also used the other mobile number 9322123588 for joining the Telegram Channel Indian Bank account. Thus, the investigation papers shows his association with the other co-accused. He also received the pecuniary benefit of 10680 US Dollars in his bank account. The total amount of Rs.9,61,000/- was received by him for supplying the information of six different current bank accounts, mobile numbers linked with that accounts, ATM Cards and the cheques books. Thus, the involvement of the present applicant revealed in economic offence, and therefore, the application deserves to be rejected as the report of the Forensic Lab is still awaited.

6. On perusal of the investigation papers it reveals that the complainant was insisted to invest the huge amount of Rs.1,69,38,222/- on the promise of 10 to 20 % profit on the amount invested. The amount was transferred in the account which was linked with the mobile number of the co-accused Rakesh Dongre. During the investigation, it further revealed that the present applicant procured six account numbers for siphoning of the amount by paying them Rs.1,00,000/- each. The various mobile numbers are used by the present applicant to link the said various accounts and he has received the pecuniary gain of Rs.9,61,000/- against the said transactions. Thus, as far as the involvement of

the present applicant reveals from the investigation papers. The offence which was registered against the present applicant is in the nature of the economic offence. However, now the investigation is already completed. Though the involvement of the present applicant is in the economic offence, considering the nature of the evidence collected by the investigating agency and in view of the observation of the Hon'ble Apex Court in the case of **P. Chidambaram Vs. Directorate of Enforcement** reported in **(2020) 13 SCC 791** wherein it is observed that the gravity of the offence, the object of the Special Act, and the attending circumstances are a few of the factors to be taken note of, along with the period of sentence. After all, an economic offence cannot be classified as such, as it may involve various activities and may differ from one case to another.

7. The observation of the Hon'ble Apex Court in the above said decision is reproduced her for the reference.

> *"23. Thus, from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench of this Court, it could be deduced that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same the gravity of the offence is an*

aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of "grave offence" and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provide so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial."

8. Admittedly, The grant or refusal to grant bail lies within the discretion of the court. The grant

or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to assure that he will submit to the jurisdiction of the court.

9. In the light of the above facts, here in the present case as considering the investigation is completed and charge-sheet is filed and the nature of the investigation and the role attributed to the present applicant, his further incarceration is not required, and therefore, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(i) The application is allowed.

(ii) The applicant **Akshay Wasudeo Khobragade** shall be released on bail in connection with Crime No.180/2024 registered with Ramnagar Police Station, District Gondia for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code and under Section 66D of the Information Technology Act, on executing

PR Bond in the sum of Rs.50,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the Ramnagar Police Station twice in a month on 1^{st} and 15^{th} of every month and the Police Station Officer shall record his presence.

(iv) The applicant shall not leave district Gondia without prior permission of the District Court.

(v) The applicant shall not leave India without prior permission of the Court.

(vi) The applicant shall produce his passport, if he is having before the investigating agency.

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

(viii) The applicant shall attend the proceedings before the trial Court without seeking any exemption unless there are exceptional circumstances.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate