

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

CRIMINAL APPLICATION (BA) NO.1201 OF 2022

Rajendra Raiban Khobragade .Vs. State of Maharashtra, through P.S.O., P.S.
Yashodhara Nagar, Nagpur

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri D.V. Chauhan, Adv. a/w Shri C.B. Barve, Adv. for the applicant.
Shri V.A. Thakare, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : 30/11/2022

1. Heard.
2. The applicant is seeking bail in Crime No.288 of 2021, registered with Police Station: Yashodhara Nagar, District: Nagpur, for the offences punishable under Sections 420, 406, 409 and 120-B of the Indian Penal Code, Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999, Section 66-d of the Information Technology Act, Sections 58-B (5-a) Reserve Bank of India Act, Sections 3 and 25 of the Indian Arms Act, and Sections 3(i)(ii), 3(2), 3(4), 4 of the Maharashtra Control of Organized Crime Act, 1999.
3. The prosecution story is that, the main accused Nishedh Wasnik and his other associates including applicant were promoting investors by organizing seminars at various hotels under the aegis of Ithar Trade Asia. They

were giving allurements to the gullible investors with promise of high returns and they have cheated and committed breach of trust with 195 investors, who have invested around Rs.4,25,80,635/-. After receipt of the complaint, the offence came to be registered. Two charge-sheets were filed in Special M.P.I.D. Court. Subsequently, it revealed that the accused Nishedh Wasnik, along with other accused, is engaged in continuous unlawful activities and running organized crime syndicate. Therefore, the provisions of MCOC Act were invoked and after getting sanction, the charge-sheet came to be filed.

4. The record shows that the applicant made representation to various investors at the seminars as regards the scheme of the company and on such promising representation, the investments were made by many persons.

5. The investigation is complete and upon perusal of the charge-sheet, it reflects that almost majority of the witnesses have named the applicant for promoting the scheme by showing benefits of the same.

6. Shri Chauhan, learned advocate for the applicant submits that the investment made by the complainant was for purchase of crypto currency which is a speculative investment.

7. It is submitted that after the investment, a value of crypto currency came down and as the informant has not received returns as per alleged promise made to him, he lodged the complaint.

8. It is submitted that the applicant used to canvass the schemes of the company as a commission agent. It is submitted that the applicant is in jail from 17.04.2021. i.e. for more than one and half years and as the investigation is completed and charge sheet has been filed, he submits that further custody of the applicant is not necessary.

9. It is pointed out that as per the FIR, the total amount involved in the present crime is Rs.48,60,500/-. He therefore, submits that as the major amount has already been secured by the prosecution, further custody of the applicant is not necessary. Accordingly, he prays for grant of bail.

10. On the other hand, the learned APP strongly opposes the application and submits that though presently the amount involved in the present crime is Rs.48,60,500/- but it may rise up to 3 to 4 crores. He submits that during the investigation, the material collected by the Investigating Officer shows the involvement of the applicant in the alleged offence.

11. In the backdrop of submissions of the learned counsel for the applicant and the learned APP, I have perused the charge sheet and the application.

12. In the present case, at the behest of one Nishedh Wasnik, the present crime was registered against the applicant and eight other accused persons. The applicant and the co-accused Nishedh Wasnik informed the complainant that they were agent of crypto currency and Forex trading company.

13. It is alleged that the applicant had given a promise to give handsome returns on investment and it is a profitable business, thereupon, the complainant invested the huge amount. It is stated that initially, the complainant paid interest. However, subsequently, it was informed that the value of the said investment starts going down and later on it was revealed that the said company was bogus. Accordingly, he lodged the complainant.

14. It is in a common knowledge of all that crypto currency may be a good investment if you are willing to accept it as a high risk gamble which could pay off, but also there is a strong chance, you could lose all of your money.

15. In this case, the offences are registered under Sections 420, 406, 409 and 120-B of the Indian Penal Code, Sections 3 and 4 of the Maharashtra Protection of

Depositors (in Financial Establishment) Act, 1999, Section 66-d of the Information Technology Act, Sections 58-B (5-a) Reserve Bank of India Act, Sections 3 and 25 of the Indian Arms Act, and Sections 3(i)(ii), 3(2), 3(4), 4 of the Maharashtra Control of Organized Crime Act. There is a serious dispute of applicability of Sections 409 and 120-B of the IPC, as raised by the applicant.

16. At this stage, considering the scope of this application for grant of bail, I do not want to make any comment as regards the applicability of Section 409 of the IPC, as it may cause prejudice to the trial.

17. As far as other offences are concerned, the maximum punishment would be seven years and since the investigation is completed and the charge sheet has been filed, I am of the opinion that further custody of the applicant is not necessary. Accordingly, I pass following order:

- i) The application is **allowed**.
- ii) It is directed that the applicant shall be released on bail in Crime No.288 of 2021, registered with Police Station: Yashodhara Nagar, District: Nagpur, for the offences punishable under Sections 420, 406, 409 and 120-B of the Indian Penal Code, Sections 3 and 4 of the Maharashtra

Protection of Depositors (in Financial Establishment) Act, 1999, Section 66-d of the Information Technology Act, Sections 58-B (5-a) Reserve Bank of India Act, Sections 3 and 25 of the Indian Arms Act, and Sections 3(i)(ii), 3(2), 3(4), 4 of the Maharashtra Control of Organized Crime Act, on his furnishing P.R. Bond of Rs.25,000/- with a solvent surety in the like amount.

- iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence.
- iv) The applicant shall not leave the jurisdiction of the concerned police station without permission of the Court.
- v) The applicant shall attend the concerned police station as and when his presence is required.

The criminal application is **disposed of** accordingly.

JUDGE