

MHCC020063902019



BEFORE THE DESIGNATED COURT UNDER M.P.I.D. ACT
CITY CIVIL & SESSIONS COURT, MUMBAI

ORDER BELOW EXHIBIT NO.44
IN

MPID SPECIAL CASE NO.7 OF 2019

Hunkar Ramesh Bhat]
Age : 32 years,]
Residing at Gaurav Excellency,]
Building No.4,]
11th Floor, Flat No.1104,] *Applicant/*
Hatkesh Mira Road (E), Mumbai-401 107.]... *Accused no.5*

Versus

The State of Maharashtra]
(At the instance of E.O.W., Unit-VII, Mumbai)]... *Respondent*

Appearances:-

Ld. Advocate Sandeep Karnik for the Applicants
Ld. SPP V. C. Malankar for the State/ Respondent.

**CORAM : HIS HONOUR JUDGE
SHRI S. B. JOSHI
(Court Room no. 7)**

DATE : 21st August, 2023.

ORAL ORDER

1. The present application is filed by the applicant/ accused no.5 Hunkar Ramesh Bhat against whom the C.R. No.81 of 2017 is registered with EOW, Unit-VII, Mumbai for the offences punishable under Sections 406, 409, 420, 465, 467, 468, 471 r/w

:2: Order below Exh.44 in MPID 7/19

Section 34 of the Indian Penal Code, 1860 (hereinafter referred as “IPC”) as well as Sections 3, and 4 of The Maharashtra Protection of Interest of Depositors Act, 1999 (hereinafter referred to as “M.P.I.D. Act”) for his release under Section 88 of The Code of Criminal Procedure, 1973 having not arrested by the EOW during the course of the investigation and till filing of the charge-sheet.

2. The Respondent /EOW through Ld. SPP resisted this application by filing its say at Exhibit No.44/R on this application only contending that they are objecting the same.
3. Heard both Ld. Counsel for the applicant and Ld. SPP. In view of facts and circumstances following points arise for my determination and findings are given for the reasons mentioned thereunder are as follows:-

Sr. No	POINTS	FINDINGS
1.	Whether the applicant Hunkar Ramesh Bhat is entitled for his release under Section 88 of Cr.P.C. as prayed?	In the affirmative.
2.	What Order ?	As per final order.

REASONS

As to point nos. 1 and 2 :

4. The present applicant Hunkar Ramesh Bhat is shown as accused in the supplementary charge-sheet and is stated to be involved in alleged offences under Sections 406, 409, 420, 465,

467, 468, 471 r/w Section 34 of the IPC as well as Sections 3 and 4 of M.P.I.D. Act. Admittedly, this applicant is never arrested by the EOW under alleged accusation since registered in the crime and filing the charge-sheet or even uptil. It appears by perusing the charge-sheet, this accused is not arrested. If it is so, then the mere words constituting objection to release can not be justifiable one as there is nothing to show that the EOW has been restrained from causing arrest of the applicant in this crime. Besides this, there is nothing before the Court that during the course of investigation and till filing of the charge-sheet or even thereafter till moving this application, the applicant has tampered with any material or evidence of the matter before EOW. It is also to note that after summoning the applicant/ accused has caused his appearance. The applicant is further submitted that he has fully co-operated with the Investigating Authority when he has called him. So this is simple application under Section 88 of Cr.P.C. wherein today, the applicant has appeared before this Court and is taken into MCR. The accused is also ready to furnish bail before this Court.

5. Thus, in this background, the Court has no alternative except to pass following order in view of law laid down by Hon'ble Supreme Court in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation and Anr. (2022)10 SCC 51 dated 11.07.2022**. As such the **Point No.1** is answered in the affirmative.

6. In view of reasoning and findings to Point No.1 as above, the application being made out, it deserve to be allowed. As such

:4: Order below Exh.44 in MPID 7/19

Point No.2 is answered as per following order :-

ORDER

1. The present Application below Exhibit No.44 filed in MPID Special Case No.7 of 2019 by the applicant / accused no.5 Hunkar Ramesh Bhat is hereby allowed.
2. The Applicant / Accused no.5 **Hunkar Ramesh Bhat** be released under Section 88 of The Code of Criminal Procedure, 1973 on his executing PR bond of Rs.1,00,000/- (Rupees One Lakh only) with one or two sureties in like amount in C.R. No.81 of 2017 is registered with EOW, Unit-VII, Mumbai for the offences punishable under Sections 406, 409, 420, 465, 467, 468, 471 r/w Section 34 of the Indian Penal Code, 1860 as well as Sections 3, and 4 of The Maharashtra Protection of Interest of Depositors Act, 1999.
3. The applicant/ accused no.5 be released on provisional cash bail or security of Rs.1,00,000/- (Rupees One Lakh only) on condition to furnish surety within eight weeks.
4. The applicant / accused no.5 shall also undertake not to tamper with the evidence of EOW in this case and also not to pressurize the prosecution witnesses till adjudication of the trial.
5. The applicant/ accused no.5 shall also remain present on each and every schedule date till conclusion of the trial.
6. The applicant / accused no.5 shall undertake not to travel abroad without seeking prior permission of this Court.
7. The breach of any one of the above conditions by the applicant shall enable the prosecution EOW /Investigating Officer to apply for the cancellation of his bail.
8. Accordingly, Respondent/EOW to take the note of this order.
9. The present Application below Exhibit No.44 in MPID Special Case No.7 of 2019 stands disposed of accordingly.

:5: Order below Exh.44 in MPID 7/19

(Dictated and pronounced in the open Court.)

Date : 21.08.2023.

(S. B. Joshi)

Designated Judge and Addl.
Sessions Judge, City Civil &
Sessions Court, Mumbai.

Directly Dictated on : 21.08.2023.
Signed on : 21.08.2023.

:6: Order below Exh.44 in MPID 7/19

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT /ORDER”

21.08.2023 at 5.20 p.m.
UPLOADED DATE AND TIME

Mrs. G. P. Acharekar
NAME OF STENOGRAPHER

Name of the Judge (with Court Room no.)	H.H.J. S. B. Joshi C.R. No.07
Date of Pronouncement of Judgment/Order	21.08.2023
Judgment /Order signed by P.O. on	21.08.2023
Judgment/Order uploaded on	21.08.2023