

MHKO010051002022



Order below Exh. 10
in Spl. Case No. 285 of 2022

1. This is an application filed by the applicant-accused No. 11 Sachin Shantinath Kadam for grant of regular bail under Section 439 of the Code of Criminal Procedure. The applicant-accused came to be arrested in Crime No. 739/2022, for the offence punishable under Sections 406, 409, 420 r.w. 34 of Indian Penal Code, Section 3, 4 and 6 of the MPID Act, registered at Police Station Shahupuri, Dist. Kolhapur.

3. Brief facts of the prosecution case are as under :-

Complaint is lodged by one Raghunath Khadke. It is alleged that he is acquainted with one Mr. Durani Gulab Mulla who is an Agent/Team Leader in firm by name M/s. GrowBuzz Trading Services. Mr. Durani informed the complainant regarding the investment opportunities in M/s. GrowBuzz Trading Services. Thereafter complainant approached to the office of GrowBuzz and met Chairman co-accused No. 1 Mr. Vishwas Koli and his nephew Sourabh Koli. At that time co-accused No. 1 Vishwas Koli and Sourabh Koli informed the complainant that their Company trading in Share market and proposed that if the complainant invests money in the said firm, for every lakh invested the said firm would return every month 10 percent of the capital and 5 percent return i.e. a payout of 15

percent every month. Thus, based on assurance given by the accused, the complainant on 31.12.2021 invested an amount of Rs. 4,50,000/- in cash through GrowBuzz Nindhi Bank, Kolhapur. On depositing said amount the complainant received an ID number from Growbuzz Trading on his mobile number. Thereafter co-accused No. 1 Vishwas Koli executed a Promissory note in favour of the complainant. Thereafter complainant received payment of Rs. 64,125/- each on 31.1.2022 and on 4.3.2022 i.e. Rs. 1,28,245/- as and by way of returns on the investment made by the complainant in GrowBuzz Trading Services. However, thereafter the complainant has not received a single rupee. Therefore, complainant continuously followed up the accused for the payments of returns as promised to him. However, the accused avoided payment of returns by citing some or the other reason. It is further alleged that complainant found that like him many other investors have invested money in GrowBuzz Trading Services and further found that some of the investors have paid 1-2 installments of returns and many other have not been paid a single by the accused. It is further alleged that from 1.7.2022 the accused have closed down the office of GrowBuzz Trading Services and have since then absconded. It is further alleged that thereafter complainant realized that the accused have by assuring lucrative returns on the investment, induced him and not paying the assured returns and cheated him. It is further alleged that complainant learnt

that along with Vishwas Koli, Sourabh Koli, the mother of co-accused Swapnil Koli i.e. co-accused Ujwala Koli is also Partner and also involved in luring the investors and cheating them. Thus, the complainant filed complaint against the co-accused and applicant-accused.

4. During investigation it was transpired that the present applicant-accused was working in the company Growbuzz Trading Services and GB Welfare Company as an agent/leader and thereby promoted and induced investors to invest in Growbuzz Trading Services and G. B. Welfare Investors. Therefore, according to the Investigating officer the present applicant is the agent/leader and have played active role in the present offence.

5. The applicant was arrested on 6.11.2022. Now he is in MCR.

6. The learned counsel for the applicant-accused has submitted that the applicant-accused is innocent and he has not committed any offence. He has been falsely implicated in the present crime on suspicion. He is deeply rooted in the society and ready to obey the terms and conditions imposed by the Court while releasing him on bail.

7. The learned counsel for the applicant-accused has further submitted that the material investigation in the present

crime has been completed and custodial interrogation of the applicant-accused is not required to the police. With these submissions, the learned counsel for the applicant has prayed for releasing the applicant-accused on regular bail.

8. The investigating officer has filed say at Exh. 23 through learned Addl.P.P. Shri. Pirjade, elaborating the investigation, the investigating officer has raised objection to release the applicant-accused on bail.

9. The learned Addl.P.P. Shri. Pirjade, has vehemently argued that the offence is very serious in nature, investigation is not yet completed and is in progress. The police has to carry out thorough investigation in the present crime. If the applicant-accused is released on bail, there is every possibility of pressurizing and threatening the victim and also other witnesses and tamper the evidence by the applicant-accused. Therefore, the learned Adll.P.P. has prayed for rejection of the application.

10. Perused the record and say at Exh. 23. Heard Shri. V. M. Khade learned counsel for the applicant-accused and learned Addl.P.P. Shri. Pirjade for the State. Considering the facts of the case and the arguments advanced by both the sides, I come to the conclusion as follows:

11. One of the objection raised by the Ld. APP that the applicant accused has purchased two properties in the name of

his wife and if bail is granted there is every possibility that he will sell those properties. It is further objected by Ld. APP that applicant accused has purchased four wheeler Volkswagon bearing No. MH-09-CY-0069 and one Bullet No. MH-09-FZ-7711 from the amount of commission received by him on the amount invested by various investors.

12. The wife of applicant Pallavi Kadam on whose name the said landed property is mutated has given undertaking at Exh. 26 that she has purchased both the plots from her own self acquired income. As such she has given an undertaking that she shall not sell or transfer those two plots without permission of the court. In respect of the vehicles she has given undertaking that she is ready to produce both the said vehicle to the Investigating officer for the purpose of further investigation.

13. One of the witness Jeevan Manohar Tapase has appeared through Ld. Adv. Shri. S. R. Mane and had filed objection at Exh. 19 and has raised strong objection to release the present applicant on bail. To support the contention he has produced copy of complaint given by him to Shahupuri Police Station against the present applicant. In the said complaint Manohar Tapase and Akshay Kokane were the complainant. It is contended in the said complaint that the present applicant-accused has received Rs. 1,60,000/- from Jeevan Tapase and Rs. 5,10,000/- from Akshay Kokane by giving assurance to

refund the said amount in double.

14. Another witness Akshay Phutane was also appeared and filed his affidavit at Exh. 22 raising objection to release the present applicant on bail.

15. Thereafter on 24.1.2023 the Ld. Advocate appearing for Jeevan Manohar Tapase and Akshay Kokane have filed pursis at Exh. 33 that the applicant's brother has given the cheques to them and have given assurance that those cheques will be encashed, therefore, they have no objection to release the present applicant-accused on bail.

16. Two investors by name Sangramsinha Pratap Bhosale and Amarsinha Pratap Bhosale had appeared through Advocate Shri. S. V. Rane. Thereafter two objectors by name Sangramsinha Bhosale and Amarsinha Bhosale filed pursis at Exh. 34 contending that the applicant's brother has given the cheques to them and have assured that those cheques will be encashed and now they have no objection to release the present applicant on bail.

17. Considering these facts and circumstances of the case it seems that the investors who allegedly had invested the amount to the present applicant has given their no objection to release the present applicant on bail. The wife of the present applicant has given undertaking so as to take care of the

apprehension shown by the Investigating officer and Ld. APP regarding disposal of the the landed property owned by the wife of the applicant-accused and the vehicles owned by the applicant-accused.

18. Considering facts of the case I find that the custodial interrogation of the present applicant will not be required. There are no criminal antecedents against this accused. The accused is local resident. There is no possibility of fleeing the accused from justice. The trial against the accused will take its own time for its decision. The accused is not required to be detained in jail for uncertain period by way of punishment before conclusion of trial. As per recent catena of decisions of Hon'ble Apex Court bail is a rule and jail is an exception. In regard to apprehension of prosecution imposing stringent conditions on accused would suffice the purpose of prosecution. Hence, I proceed to pass following order :-

ORDER

- 1) The application is allowed.
- 2) The applicant-accused Sachin Shantinath Kadam be released on bail in Crime No. 739/2022, for the offence punishable under Sections 406, 409, 420 r.w. 34 of Indian Penal Code, Section 3, 4 and 6 of the MPID Act, registered at Police Station Shahupuri, Dist. Kolhapur, on his furnishing P.B. and S.B. of Rs.1,00,000/- along with one or more sureties in the

like amount, on the conditions that;

(i) The applicant shall attend each and every date of proceeding and attend the police station, if called by the IO.

(ii) The applicant-accused shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against him so as to dissuade them from disclosing such facts to the Court or to any Police Officer.

(iii) The applicant-accused shall not tamper the prosecution evidence, witnesses in any manner.

(iv) The applicant-accused shall not leave the local jurisdiction of Maharashtra State.

(v) The wife of applicant Pallavi Sachin Kadam should follow the undertaking given by her at Exh. 26 in its true sense.

3) Breach of any of the above said condition shall result in cancellation of bail.

Dt.25.1.2023.

(Smt.P.F.Sayyad)
Additional Sessions Judge-1,
Kolhapur.