

MHKO010051002022



ORDER BELOW EXH. 138 IN SPECIAL (MPID) CASE No.285/2022

The accused No.8- Swapnil Shivaji Koli was arrested on 03/04/2023 in C.R.No. 739/2022 registered in Shahupuri Police Station under Section 420, 406, 409 read with 34 of the Indian Penal Code, 1860 r/w. Section 3, 4 and 6 of the Maharashtra Protection of Interest of Depositors Act,1999 with Section 21 of the Banning of Unregulated Deposit Schemes Act, 2019. He has filed this application for bail under section 439 of the Criminal Procedure Code. It is his first bail application and he contends that no other bail application is pending in any other Court.

2. The indictment of the applicant is that the accused No.4 to 8 (original accused No. 1 to 5 -Koli family) formed a company by name 'Grobuzz Trading Services' and floated various schemes for investments and invited general public to make investment in that company assuring them that the company will give 15% returns in 10 months. As the schemes were attractive, several persons invested the amount in the company but the company could not give the agreed returns. The complainant Raghunath Khodke lodged the complaint and based on it, the crime was registered against the accused. It was disclosed during the investigation, there are other three sister concerns of the 'Grobuzz Trading Services' namely, 'G.B. Welfare Partnership Firm', 'Grobuzz India Urban Nidhi Ltd.' and 'Grobuzz Multi Trade LLP Ltd'. The present applicant was alleged to be actively participated in the business of those companies. He is the nephew of the prime accused Vishwas Koli. During investigation, it is disclosed that this accused was in Government service and was working as the Gramsevak. He

was dealing with cash transactions of those companies of which the members of Koli Family were the directors/ partners. It is alleged that he has cheated the investors and put them in loss of total Rs. 9 Crores.

3. According to the applicant, he is not the partner or director of any of the companies but he was himself one of the investors. He had obtained loan of Rs.20,10,000/- from Employees Credit Society and had invested the same in Grobuzz Trading Services. The applicant had no authority in any of the companies and the accused Vishwas Koli had sole signing authority. He has not personally made any offer to the general public, nor received any deposit amount by assuring them to give such returns and therefore, no offence is made out against the applicant. No witness has named him to be the person to whom they paid any amount or who offered them to invest any amount in those companies. The investigation is completed and chargesheet is filed. All the record has been seized and all the bank accounts of the companies have been freezed. The applicant is ready to co-operate the investigating agency and will abide by all the conditions that would be imposed by this Court. Hence, he prays that he be released on bail.

4. The say of prosecution was called and the prosecution has resisted this application by filing say (Exh.148). Heard Shri. A.M.Dange the learned advocate for the applicant and Smt.M.B.Patil, the learned APP. Perused the case papers and grounds for bail. The learned advocate for the applicant relies on the judgment of the Hon'ble Bombay High Court (Nagpur Bench) in *Samadhan Moray Vs. State of Maharashtra [Cri. Application (ABA) No. 471/2014]* wherein, there was similar charge against the accused. It was found that there was no material to show that the applicants had some knowledge of evil design of the company and they have played any sort of direct or indirect role in commission of the alleged offences. The accused were thus released on anticipatory bail. In

Chandrasen Bhise Vs. State of Maharashtra [Cri. Applicatin (ABA)No.334/2021], the applicants were non-executive Directors of the company having no role in affairs of the company nor they took any active part in the management. They had no decision making authority nor they received any benefit from the company. They were more than 70 years of age. Thus, they were released on anticipatory bail. In *Raj Mohammad Choudhary Vs. State of Maharashtra [Cri. Application (BA)No.1347/2020]*, there was no strong *prima facie* case to connect the applicant with the crime. The charge was not framed and 150 witnesses were cited. The trial was not to be concluded within a specific period. There were no criminal antecedents against the accused. Thus, he was released on bail.

5. The learned advocate has also produced a copy of the bail order of the accused No.10- Ravisagar Halavankar in this case who was released on bail on certain conditions on 23/02/2023 by this Court. Similarly, the accused No.19-Jayant Kulkarni was released on anticipatory bail on 10/03/2023. The learned advocate for the applicant submits that the present applicant is similarly placed with the above two accused and therefore, the ground of parity is available to the present applicant. Considering the fact that the applicant has no role to play in any of the companies and in absence of material to show that he was involved directly or indirectly in the business of those companies or in absence of the material to show that he introduced the scheme of the companies to anybody or received any amount from any person in relation to any such scheme, the applicant would be entitled for bail.

6. The learned APP submits that the applicant has direct connection to the company formed by Koli family and the record and electronic devices seized during the investigation directly points the involvement of the applicant in alleged crime. The amount siphoned is more

than Rs. 9 Crores. Even though the charge-sheet has been submitted, the investigation of the crime is still going on. The complaints from the investors are being received and the names of new culprits are being disclosed.

7. The learned APP has produced on record the statements of the witnesses Soheli Bagwan, Amrut Banchode, Sanket Bhurke, Vinayak Mamulkar, Vedika Kumbhar, Shrenik Katake, Rachana Gokak and some of them are said to be the neighbours of the present applicant and they have invested the amounts on assurance by the applicant about attractive returns. All of them have stated that the present applicant was working with Grobuzz Trading Services. So, there is sufficient material against the present applicant about his direct involvement in the business of the said company. It is contended that the statements of nearabout 200 witnesses have been recorded during the investigation and most of them have named the present applicant. In electronic record, the applicant is having his ID in which he has deposited Rs.1,20,000/- and against it, he has received the returns in cash of Rs.6,25,790/-. Thus, the present applicant, even though he was a Government servant has indulged in such illegal activities. The investigation in respect of role of this applicant is incomplete. Thus, according to the learned APP, the applicant may not be released on bail.

8. Having anxiously heard the learned advocate for the applicant and the learned APP, I find material in the investigating papers which points involvement of the present applicant in business of the company. It is alleged that he was dealing with cash transactions. The reason was obvious that he was a Government servant and it could be harmful for him to deal with such business by keeping record thereof. In the software of the company, it is disclosed that he has received the returns on his investment in cash. Thus, there is reason to believe that the applicant was dealing with cash transactions. Certain photographs of the applicant sitting in the

bundles of currency notes and other documents regarding different schemes floated by the company are produced on record. The name of the present applicant is there in the initial FIR which was against only five accused. Now, there are 24 accused roped in this case so far. The alleged amount of misappropriation of Rs. 9 Crores is required to be located. The investigation in relation to the present applicant is going on. The company has issued 26,383 user ID's and got invested an amount of Rs.218 Crores and the misappropriation of about Rs. 90 Crores has been disclosed so far.

9. Under the aforesaid circumstances, the rulings cited by the learned advocate for the applicant can be distinguished on facts and circumstances. The crime was registered on 29/01/2021 and the Investigating Officer succeeded to arrest this applicant on 03/04/2023. Thus, I am of the view, considering the nature of offences, the funds involved in the crime and the scope of the investigation, I am of the view that the applicant will not be entitled to be release on bail at this stage. The ground of parity is not available to the present applicant as the accused who are released on bail or anticipatory bail had their own facts and circumstances which led to release them on bail as mentioned in their bail orders. Thus, the present applicant is not entitled to claim parity, particularly when, he has different role in the alleged crimes. Hence, I hold that this application is liable to be rejected. Hence, the order.

ORDER

Bail Application is rejected.

Date: 27/04/2023

(S.R. Salunkhe)
Special Judge (MPID),
Kolhapur.