ORDER BELOW EXH. 3 IN SPL.S.C. NO. 4/2021
[CNR-MHPU01 014119-2020]

Nitin Raosaheb Hase

Vs.

State of Maharashtra

1] This is second application filed by the applicant for regular bail u/s 439 of Cr.P.C. in connection with Crime no. 209/2020, registered with Hinjwadi Police Station for the offence punishable under sections 406,409,420,34 of IPC, r.w. sec. 3 & 4 of MPID Act.

2] It is the case of the prosecution that one Rajashri Nilesh Wani is a business woman. She is engaged in business of garage and car repairing and she is residing at Narayangaon, Tal.Junnar, Dist. Pune alongwith her family. She is also doing another business of digital marketing in the name and style Savi Info Tech through one Megamind Tracker Consultancy Softech Private Ltd., Indore, State of Madhya Pradesh. She was running a mobile application called Lupchup. With the help of that application work of creating a greeting card, writing block, creating resume, creating videos, creating question answers by doing such traffic generation work, the company would return the refund @ 30% to 40% per month on money invested by the complainant. The said agreement was for 24 months. Complainant and other people from Narayangaon area have invested their money. Accused no. 1 Vivek Khokrale is her son in law. She invested Rs. 15,00,000/- for opening franchise. Accused persons in furtherance of their common intention induced her to make investment in the said company for taking franchise and without giving any return they have cheated her and misappropriated amount of Rs. 15,00,000/-. Besides her there are 37 franchise holders/investors and they were also cheated. Criminal breach of trust was also committed in respect of them and total amount of misappropriation is 4,78,00,000/-. On the complaint of complainant this offence came to be registered. This applicant was came to be arrested on 1/10/2020. Initially he was remanded in police custody. Now he is in judicial custody.

3] Advocate for accused in his argument stated that applicant neither cheated nor made any fabricated documents to grab any money of the informant or any other investor. As per the FIR the entire money was paid by the complainant by RTGS or other banking mode to Megamind Tracker consultance softek Pvt. Ltd. Indore and not a single cheque has been issued in the name of the applicant. The applicant is not a signatory to any of the alleged documents, agreements and he is not trackor or employee of the company. On 29/3/2019 said Megamind tracker executed registered agreement with the applicant for said business in which it confirms that they have received the amount from the present applicant as a business security amount. All allegatoins are revealed against the company and its directors and owners. Investigation is completed and chargesheet has been filed. In that chargesheet no document has been filed to show that this applicant was working as Maharashtra head of the said company. Besides complainant other 32 persons were also cheated. In this bail application applicant has given details in tabular form showing names of 37 investors total amount invested by them and name of alleged promotor. It is his allegation that Pritam Ghatkar, Dinesh Gadaskh, Manik Hase, Nilish Chaudhary were not shown as accused by the I.O. Secondly investigation officer has recorded statements of only 3 investors. Statements of Atul Dhengle, Bhusan Borade, Vijay Falle, Asmita Jagtap, Akshay Betkar, Yogesh Khemnar etc. are not recorded although they are material witnesses which shows selective appoach and intention of false implication on the part of prosecution. While rejecting earlier application, it was observed in the bail order on wrong information given to this Court by APP that one Namjoshi has transferred Rs. 15,00,000/- in the account of applicant. The applicant states that no such person or any other person has transferred amount of Rs. 15,00,000/- in the account of applicant at any point of time. This applicant is languishing in jail since 1/10/2020 . Nothing remained to be recovered or discovered from him in the entire chargesheet. There is not even a single document showing involvement of applicant in day to day affairs. One of the investor from Madhya Pradesh has filed complaint against said company and its directors for cheating and while granting bail to director Mr. Sachin Sisodiya the observations made by Madhya Pradesh High Court are material for this bail application also. No purpose will be served by keeping the accused behind the bar. Actually applicant is one of the victim. He also made investment with the said company and he also did not receive any amount. He had appointed nearabout 50 employees to run the said App from month of

January 2019 till October 2019 and spent approximately Rs. 25,26,300/- on salary of employees and rent.

4] Ld. APP strongly opposed this application. It is his contention that statements of witness Dattatray Dushing, Aruna Londhe and Babasaheb Datir, Manoj Thorat, Rajashri Wani clearly show involvment of this applicant in the said crime. Although chargesheet has been filed against this applicant investigation work pertaining to this crime has not been completed. This appliant was working as Maharashtra head and his role cannot be ignored. IO has recorded supplementary statement of complainant and statements of available witnesses. Full name and address of some of the alleged promotors including above stated persons were not received. Hence they could not be shown as accused. Full name and address of some investors also not received including above named persons hence they could not be traced out and their statement could not be recorded. Copies of mobile messages, mobile chatting, photographs of inauguration ceremony of franchise clearly show that applicant was working as Maharashtra head. He was playing leading role in the alleged crime. This applicant issued cheque of Rs. 15,00,000/- to the complainant but subsequently stopped its payment which shows his intention. Whether that cheque was forcibly obtained or otherwise will be decided at the time of final hearing. For obtaining franchisee, investor Mr. Dattatray Dushing transferred Rs. 5,70,000/- in the account of this applicant which also shows that this applicant was playing leading role for that company in Maharashtra State. If this applicant will be released on bail, further investigation will be hampered. Mere filing of chargesheet is not change in circumstance. Hence this application may be rejected.

5] During investigation it was revealed that this applicant had sent some mobile messages to the investors in which he has mentioned his designation as first chairman or Maharashtra head of the said company. Photographs of opening ceremony of some of the franchises show that this applicant had taken active part in it. While rejecting earlier application inadvertently name of 'Namjoshi' was mentioned. Actually name of that investor is Dattatray Dushing. His statement is already recorded by the police. Besides his statement there are statements of other witnesses which clearly show involvement of this applicant in the alleged crime. This is case of economic offence in which investors were duped to the tune of crores of rupees. At this juncture, if this applicant will be released on bail, further investigation will hamper. Statements of prosecution witensses recorded by the I.O. clearly show the inducement made by this applicant to the investors to make investment in that company. He had played key role as Maharashtra head of said company. Mere filing of chargesheet is not change in circumstance. Hence, this application deserves to be rejected. Therefore, I pass following order.

ORDER

Application is rejected.

Date: 26/02/2021

(S.S.Gosavi)
Addl.Sessions Judge, Pune

“I affirm that the contents of the PDF file order are same word to word as per original judgment.”

Name of Steno : Mrs.V.A.Nagarkar, Stenographer Grade-I
Court Name : S.S.Gosavi, Addl. Sessions Judge, Pune
Date : 26/02/2021
order signed by presiding officer on : 03/03/2021
Order uploaded on : 04/03/2021