

MHRG170129952019



IN THE COURT OF DISTRICT JUDGE-1 & ADDITIONAL
SESSIONS JUDGE, PANVEL, DIST.RAIGAD
ORDER PASSED BELOW EXHIBIT 25 IN
SPL (MPID) CASE NO.542/2019 (OLD NO.1/2019)
(Dated 03/10/2023)

1] The applicant/accused Jayant Prabhakar Zambarepatil has preferred this third bail application in C.R.No.503/2019 registered with Kharghar Police Station, u/s.406, 420, 409 r.w.34 of IPC and u/sec.3 and 4 of MPID Act, 1999.

2] It is submitted that, accused was arrested on 29/12/2018 and since 11/01/2019 he is in judicial custody. According to prosecution applicant/accused instigated informant to invest in Ventura Solutions Services Company. Informant invested Rs.5,00,000/-, but did not get return after maturity.

3] According to applicant/accused 38 months have passed after rejection of his last bail application. The allegations of misappropriation are of Rs.1,86,00,000/-. But the accused owes only Rs.30,00,000/-. The accused has refunded amount of the investors. It is further submitted that, bail application of the accused was lastly rejected prior to 4 years, since then there is no progress report submitted by the prosecution. The accused has undergone a period of more than 5 years behind bar, which is more than 1/2 of the maximum period of the imprisonment

specified for the alleged offence. Accused submits that he will refund all investors amount within period of 9 months after release.

4] Say of the prosecution and victims is called. According to the investigation officer, not only informant but other 28 investors had invested an amount of Rs.2,47,00,000/-. The accused refunded Rs.23,06,250/- as interest amount. According to prosecution inquiry and investigation is in progress as per section 173(8) of Cr.P.C.

5] The victims have filed say at Exh.52. According to them the misappropriation amount of all victims is about Rs.4,80,00,000/-. Further at Ex.55 the victim submit that, as per the investigation officer , the accused is liable to deposit Rs.2,23,93,780/-. According to victim if accused deposits the amount within one year, he may be released on conditional bail.

6] Heard Ld.Adv.Shri A.R.Raite. Heard Ld.APP. Heard Ld. Adv.Shri Gunjal for the victims.

7] At the outset it be noted that, my predecessors, firstly when the matter was at Special Court, Raigad-Alibag and on second occasion when the matter is at Panvel, on merit had rejected the earlier bail applications. Hence, merits of the prosecution's case, is not the subject matter in this third bail

application. The only question to be adjudicated is whether applicant/accused is ready to deposit the investors' amount within a specified period after release on bail.

8] Ld.Adv.for the accused submitted that, accused will file undertaking about the amount which is mentioned in the charge-sheet and the amount arrived by the investigation officer at the time of filing of the charge-sheet. The applicant/accused has shown inability to file an undertaking about his readiness to deposit the amount of Rs.2,23,93,750/-.

9] It be noted that, at the time of filing of the report, during investigation and at the time of the filing of charge-sheet, near about 8 victims had approached the investigation officer. Later on the other investors had also raised their grievance and the investigation continued. Prosecution can file additional charge-sheet as per section 173 (8) of Cr.PC. Hence, I find no substance in the submission of the applicant/accused that, he is liable only to pay those investors, who had approached the investigation officer before filing of charge-sheet.

10] It be noted that, this Special Court was and is ready to frame charge and commence the trial, however, record shows that, accused moved various applications at Exh.21 which was for bail. Argument of this application was delayed and after this application was decided, again present application for bail is

moved. Hence, the applicant/accused cannot blame for non-commencement of trial.

11] With these observations, the third bail application Exh.25 stands rejected with following directions.

ORDER

1. Application Exh.25 is hereby rejected.
2. Ld.Spl.Prosecutor is directed to furnish draft charge on 10/10/2023, and on the same day accused will be produced through video conferencing and charge will be framed against him.
3. Prosecution is hereby directed to secure presence of its witnesses after framing of charge.
4. The trial of the case is expedited.

Panvel

Dated :-03/10/2023

(Jairaj D.Wadne)

Addl. Sessions Judge, Panvel-Raigad

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the stenographer	: S.J.Sheth
Name of the court	: Additional Sessions Judge, Panvel-Raigad
Date of dictation	: 03/10/2023
Order signed by the P.O.on	: 03/10/2023
order uploaded on	: 04/10/2023