



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.391 OF 2019

Sachin Vasant Shelar
Age 43 years, Occu: Service,
R/o. B-103, Chandresh Kanchan CHS
Shivaji Chowk, Lodha Heaven,
Dombivali (East),
District: Thane
[Presently lodged at Thane
Central Prison, Thane ... Applicant

Vs

The State of Maharashtra
Vide C.R.No.I-116 of 2018
registered at Chitalsar Police
Station, Thane ... Respondent

WITH
BAIL APPLICATION NO.223 OF 2019

Taha Hafiz Kazi
Age: 26 years, Indian Inhabitant
Residing at: B/B-1, 201, Falah Complex
, Talavpali Road, Kausa, Thane
Presently lodged in Thane Jail ..Applicant

Vs

The State of Maharashtra
Through the Police Inspector,
Chitalsar Police Station,
District: Thane ..Respondent

...

Mr. Akhilesh Dubey with Mr. Bhushan Bankar with Mr.
Uttam Dubey with Mr. Siddhesh Rajput and Mr. Varad

Dubey i/by Law Counsellors for the Applicant in BA 223 of 2019.

Mr. Nitin Pradhan i/by Mr. S.D.Khot for applicant in BA 391 of 2019.

Ms. Veera Shinde, APP for the Respondent-State.

PI Nitin Thakare attached to Crime Branch (Division 1) Thane present.

CORAM : SANDEEP K. SHINDE J.
RESERVED ON : 28th JANUARY, 2021.
PRONOUNCED ON: 8th FEBRUARY, 2021.

JUDGMENT :

These applications are filed under Section 439 of the Code of Criminal Procedure, 1973 ('Code' for short).

2 Applicant Sachin Shelar ('Shelar' for short) and Taha Hafiz Kazi ('Kazi' for short) have been cited as accused nos.2 and 1 respectively in Crime No.I-116 of 2018 registered at Chitalsar Police Station, Thane for the offences punishable under Sections;

(I) 419, 420, 406, 465, 467, 468, 471, 120B, 171 read with Section 34 of the Indian Penal

Code, 1860;

(ii) Section 4 of the Chit Funds Act, 1982;

(iii) Section 66D of the Information Technology Act, 2000;

(iv) Section 3 of the Maharashtra Protection of Interest of Depositors Act ('MPID' for short).

3 Particulars of the accused in the subject offence and their date of arrest are as under:

- | | |
|-------------------------------|-------------------------------|
| (1) Taha Hafiz Kazi | 4 th June, 2018 |
| (2) Sachin Vasant Shelar | 18 th June, 2018 |
| (3) Vikram Shekhar Bangera | 13 th August, 2018 |
| (4) Amit Madanlal Lakhanpal | Absconding |
| (5) Ms. Komal Bhimrao Shirsat | Absconding |

4 On 31st June, 2018, charge-sheet has been filed against accused nos.1 and 2. On 9th October, 2018 supplementary charge-sheet has been filed against accused no.3.

5 Prosecution's case in brief is that;
Amit Lakhanpal (absconding accused) is
Managing Director of Flintstone Group of Companies;
1) Money Trade Coin Club Private Limited.
2) Flintstone Technology Pvt. Ltd.
3) Ray Affordable Flats and Housing Pvt. Ltd.
4) Orbit Buildcon LLP
5) M.T.Pay Services LLP
6) Flintstone Infracon LLP
7) Flintbeats Enterprises LLP

6 That in the year 2017, Amit Lakhanpal held the seminars at Delhi, Pune and Nashik explaining benefits of investment in crypto currency. One of such seminars held on 4th August, 2017 was organised at Taj Mansingh, New Delhi on the subject crypto currency. It was attended by the complainant Pravin Agarwal and his friends. In the said seminar, Amit Lakhanpal introduced himself as a member

of Finance Ministry and showed his visiting cards with national emblem on it. He encouraged the complainant and other persons to invest in money trade coin (MTC). Amit Lakhanpal explained and assured that if the coins were purchased between 15th July, 2017 to 27th July, 2017, the value per coin would be 1 \$; between 30th July, 2017 to 12th August, 2017, the value per coin would be 1.5 \$; and if purchased between 15th August, 2017 to 27th August, 2017, value would be 2 \$ and 30th August, 2017 to 12th September, 2017, it would be 2.5 \$. He assured that on 17th September, same would be listed in public crypto currency exchange and the rate of money trade coin (i.e. MTC) would be 3 \$. He represented that to keep the rates stable at 3 \$, Rs.250 Crores would be kept in fixed deposit and Rs.1750 Crores stand by letter of credit was obtained. He represented that MTC would be connected to e-commerce service and the rate would go up to 600 \$ in future. That to win the confidence of the investors, he had shown correspondence with Government of India, Prime Minister

office, Finance Ministry for making the crypto currency legal. He had also promised that investors would be given visa debit card on which MT coins would be loaded and same could be used in ATM machine and can be used as currency. Impressed with attractive investment schemes, Mr. Agarwal, Complainant visited the office of Flintstone group of Companies at Thane and invested Rs.10 Lakhs in Money Trade Coin (MTC).

7 It is alleged that after deposit of the amount, complainant's account was opened in MT Pay and MT coins were transferred in the said account for its maturity in January, 2018. That instead of returning the said amount, Amit Lakhanpal had floated another scheme, i.e., coin deposit ratio, which had, locked-in period, of six months with 15% returns for six months and 20% returns for twelve months. In the month of December, 2017, Amit Lakhanpal and co-accused listed MT coins on Nova Exchange (virtual coin exchange). Complainant purchased

MT coins from the said exchange . After few days, rate of MT coins started declining. When the complainant enquired about decline in value of MTC, Kazi, Accused No.1 told that said MT coins were not of their company. Furthermore, a new scheme by name, MTC Banque and new exchange by name MTCX India were floated. Complainant and others invested in the coin on assurance that rate of coin would be increased to 6 \$ per coin. Due to this hope was generated within the complainant and others to make further investments in another plan with Cypto Zananiya. At this time, value of MT coins had gone up, substantially but at the same time service of withdrawal of money or sale of money trade coin was stopped. Investigation revealed that Amit Lakhanpal and co-accused consciously manipulated rate of MT coins. Thus, it is to be stated that accused Amit Lakhanpal and co-accused lured people into investing money with false promise of heavy returns. To, say, investors were neither paid returns nor returned principal amount nor were permitted to trade in MTC. Thus, by

gaining trust of the complainant and other investors, they made them to invest in their money trade coin crypto currency by floating various schemes, plans called Cryptozananiya. It is crypto currency wallet service, where investors can deal in money trade coin and bitcoin on MTCX Capital India for their financial transactions.

8 Thus, subject offence is economic offence having deep routed conspiracy and involving huge loss of investors' money. Thus, it appears, Amit Lakhanpal with the active assistance and in collusion with the applicants, who are before this Court, collected huge amount of Rs.113 Crores from fifteen thousand investors and siphoned off from various accounts.

9 Applicants herein were arrested in the month of June, 2018. Charge-sheet has been filed against them, however, further investigation is underway.

10 Mr. Pradhan, learned counsel for the applicant-Shelar, would contend that Shelar was working under the authority of Amit Lakhanpal as his employee and was not involved in decision making process nor had control over the day-to-day affairs of the group of companies led by Amit Lakhanpal. The learned counsel would contend that the penal provisions of the MPID Act have been incorrectly invoked, in-as-much as, provisions of Section 2(c)(viii) of the MPID Act takes away from its purview any amount received by way of subscription in receipt of chit. He would rely on provisions of Section 2(d) of the Chit Funds Act, 1982. Mr. Pradhan would, therefore, submit that if provisions of Chit Funds Act, 1982 are applied, it excludes, provisions of MPID Act. His next submission is that there is no evidence at all to indicate or even to suggest that applicant-Shelar is beneficiary of any amount allegedly siphoned off by Amit Lakhanpal or other directors of the company. It is submitted that Shelar is salaried employee and all throughout his acts, commission and omissions were at the command, of Amit

Lakhanpal. It is further submitted that the investigation is over and trial may not commence in near future. However, presence of the applicant-Shelar can be secured for the trial by imposing suitable conditions. Learned counsel would submit that since prosecution's case is based on documentary and electronic evidence and since all electronic devices are seized, possibility of tampering evidence stands excluded and ruled out. Mr. Pradhan would, therefore, urge that the applicant be released on bail.

11 The State has opposed the applications of Shelar and Kazi by filing affidavit of Mr. Nitin Thakre, Senior Police Inspector attached to Crime Branch Unit-I, Thane. Ms. Shinde, the learned Additional Public Prosecutor has taken me through the charge-sheet and pointed out role attributed to the applicants and their complicity in the subject crime.

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12 Investigation shows, accused Shelar was not an employee of the group of companies led by Amit Lakhanpal but he is director in the following six companies:

- (1) Flinstone Technology Pvt. Ltd.
- (2) MT Pay Services Pvt. Ltd.
- (3) Money Trade Coin Pvt. Ltd.
- (4) Flinstone Infracon LLP
- (5) Orbitcon LLP
- (6) Flinstone Enterprises Pvt. Ltd.

Office of the Registrar of Companies has supplied the aforesaid information, which is also placed on record along with the affidavit. In view of this fact, the contention of Mr. Pradhan that accused Shelar was an employee at the command of Amit Lakhanpal is incorrect. Therefore, at the first place, the applicant Shelar has not approached this Court with clean hands.

13 Material on record indicates, that soon after the registration of the subject offence, accused Shelar fled to

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Dubai. There is material on record to suggest that the Amit Lakhanpal and Shelar purchased the air tickets from one agency and statement of employee of the said agency fortifies this fact.

14 The learned Additional Public Prosecutor, to show the complicity of the applicant Shelar, has relied on the statement of Chetan Thakkar Angadia recorded on 29th June, 2018. Mr. Chetan Thakkar Angadia is in the business of courier service. His statement reveals that in November, 2017, he was introduced by one Mehul to applicant Shelar and at the instance of Shelar, Chetan Thakkar had collected, cash around Rs.4 Crores in between November, 2017 to February, 2018 from different cities across the country and at his instance handed over/delivered the cash to co-accused Bangera, Tushar Joshi and other persons. Mr. Thakkar stated at the instance of the applicant Shelar, he had delivered cash at the office of Flinstone Group at Thane. In support of the statement, Chetan Thakkar has produced

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the register. It is part of affidavit. I have perused it. (Page 269, 286). This register shows, particulars of persons across the country from September, 2017 till 31st January, 2018 wherefrom he had collected cash. I have no reason to disbelieve and discard the statement of Chetan Thakkar and the entries in register, maintained regularly in the course of business, which in clear terms shows complicity of the applicants in the subject crime. In this regard, further investigation is on going and Shelar is the only person, who can explain from whom and for what purpose, huge cash was collected through Angadia and where the cash is lying or utilised.

15 Yet, statement of one Arun Madhukar Lade, another investor clearly discloses complicity of both the applicants. In his statement, he has given clear account as to how he was lured by Amit Lakhanpal to invest Rs.1,10,000/- in money trade coin, a crypto currency and other such schemes and wallets floated by the group of

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companies. He would say that as and when he visited office, the applicants were found present. It may be stated that this witness was assured definite returns on investment in money trade coin and his confidence was won by showing forged stand by letter of credit issued by the HSBC Bank against the fixed deposits. This letter of stand by credit turned out to be a forged document as could be seen from letter dated 5th June, 2018 addressed to Senior Police Inspector by the HSBC Bank. Bank disowned the said document.

16 The learned Additional Public Prosecutor has further relied on statement of Amit Kumar Panigrahi to show complicity of accused Kazi. Though it is contended by the learned counsel for the accused Kazi that Kazi was an employee of the group of companies led by Amit Lakhanpal but the evidence is otherwise.

17 Mr. Panigrahi in his statement recorded on 22nd

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August, 2018 stated that in the year 2017, accused Kazi had appointed him as PHP Developer and instructed him to develop two web-sites namely MTCX India.com and MTCX India.in. These web-sites were required by Amit Lakhanpal for trading in the crypto currency. Accordingly, this witness developed these two web-sites, through which investors were investing the money in the schemes floated by Amit Lakhanpal and the co-accused. This witness stated in detail how the schemes were operated through these two web-sites to which accused Mr. Kazi had complete access. Statement of this witness suggests, technical changes in the two web-sites were frequently made at the instance of Kazi and he had complete control over the rate of crypto currency. This witness said/stated, that Kazi was possessing, a software through which he was able to inflate and deflate rate of crypto currency. Ms. Shinde, the learned Additional Public Prosecutor has also relied on the statement of one Akash Solanki, who does the business of advertising. His services were hired for promoting the business of money

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trade coin and MTCX India company on social media. It is his statement that in October, 2017, Amit Lakhanpal asked him to make graphics of ten web-sites, developed by Kazi.

18 Thus, the evidence on record clearly shows that applicant Kazi, was handling technical operations right from developing web-sites, designing logo and graphics including online registration of investors. This accused used to open accounts of investors with MTCX and issue the unique id to the investors. His close association with Amit Lakhanpal is also evident from the statement of one Vilas Mohite, who said his office premises were given to Group of Finstone Technologies Private Ltd under the registered lease and licence agreement with accused Kazi. Statement of Akash Solanki revealed that Kazi had given contract of graphical design of web-site to him. Besides, the evidence also suggests, he had designed and created MT Pay mobile application and two web-sites, which is evident from the panchanama relating to the downloaded data of the web-

sites. Thus, to be stated, Kazi was not just, on the pay-roll of Lakhanpal. A fact cannot be overlooked, that Kazi lent complete technical support to companies and for trading in MTC. It is apparent from the statements of witness, that Kazi had an access to system and was instrumental in manipulating the rates of MTC crypto currency. Had he been just an employee of Amit Lakhanpal, definitely, he would not have given free hand and access to system, to Kazi.

19 In the course of the investigation, personal mobiles, lap-tops of both the accused were seized and forwarded for digital forensic audit and the reports are awaited.

20 In the course of the investigation, eighty bank accounts were seized of which the forensic audit is sought. It is evident from the communication dated 24th August, 2020.

21 It may be stated that so far as the accused Shelar is concerned, further investigation has revealed that he was authorised signatory to operate the bank accounts of the Finstone Technologies Private Ltd, Money Trade Coin Club Private Ltd.

22 Ms. Shinde, the learned Additional Public Prosecutor has relied on the account opening forms, which show, accused Shelar was signatory no.3 so far as Finstone Technologies Private Ltd.'s bank account is concerned.

23 Thus, it is to be held that accused Shelar and Kazi were not sheer employees of the group of companies and working at the command and under authority of Amit Lakhanpal but the evidence shows, they were active at all the stages right from floating schemes, developing websites, monitoring the rate of crypto currency, activating investors' accounts, blocking their accounts and collection of cash from different persons across the country and its

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appropriation, as has been disclosed by Mr. Chetan Thakkar.

24 It may be stated that the report of Forensic Audit Report of “eighty bank” accounts is awaited. Once, that report is received, investigating agency may be able to trace the trail of money. Today, it cannot be said that applicants are not beneficiaries of the money siphoned off. In fact, looking at their role in the entire process right from attending seminars, floating schemes, web-sites, collection of cash, controlling rate of crypto currency, it is unlikely that they were not beneficiary of the amount siphoned off from eighty-two bank accounts of companies. Evidence shows that during June, 2018 till 9th June, 2018 in the web-sites of the company viz. Mtcxindia.com, wallet.moneytradecoin.com and MT pay wallet about 15810 investors have invested either through MT Pay/ MTCX or Banque UK or Cryptozanania schemes and the wallets floated by group of companies. There are about 45,000 investors and database analyze panchanama shows about

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15,810 investors had invested about Rs.113,10,36,551/-. Evidence also shows, money, hard discs, mobile phones, pen-drives, lap-tops, CPUs were seized from personal search and from the offices of the companies and digital forensic report in respect of 104 electronic and support devices is awaited. Evidence also suggests, money invested by 15,810 investors around 113,10,36,551/- has been diverted in the companies established in countries say Poland, England, Harju County, Dubai-UAE, Switzerland. Therefore, taking cue from the material surfaced in investigation, investigating agency is in the process of invoking the provisions of 166A (letters rogatory) of the Code of Criminal Procedure, 1973, for which necessary correspondence has been made with the Director General of Police.

25 Here crime , relates to Economic Offence. Prima-facie, material on record shows absconding key accused Amit Lakhanpal and applicants committed the subject crime

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with minute planning and deliberate design. Herein, Forensic Audit Report (of eighty-two bank accounts) and digital forensic report of 104 electronic devices is awaited. Report in respect of the support devices (like pendrive, hard disks, etc.) would, provide, further and more inputs-particulars, including money trail. In addition, investigation relating to investment in foreign countries, if any, is in progress. Thus, having regard to role of applicants' surfaced in the investigation, if they are released, further investigation will surely be influenced. Equally, whereabouts of key accused is not traced. Thus, though investigation (partly) is over, chances of tampering prosecution evidence at the hands of applicants cannot be ruled out.

26 So far as applicants' contention that provisions of Section 2(d) of the Chit Funds Act and Section 2(c)(vii) of the MPID Act being mutually exclusive, prosecution could not have applied or invoked it simultaneously, it may be stated that in appropriate proceedings and at appropriate

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time, applicants may raise this contention.

27 Applications are rejected.

28 It is made clear that observations made here-in-above be construed as expression of opinion for the purpose of bail only and the same shall not in any way influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)