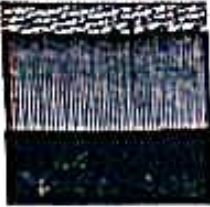


MHCC020002362021



IN THE COURT OF SESSIONS AT GREATER BOMBAY

CRIMINAL BAIL APPLICATION 56 OF 2021

CNR NO.MHCC02-000236-2021

Partho Dasgupta
Flat No.203/204 Dosti Carnation
Dosti Acres Complex,
Wadala(E), Mumbai-400 037 ...Applicant/accused no.15

Vs.

The State of Maharashtra
Through Crime Investigation
Department, Crime Branch,
Mumbai.(C.R.No.143/2020 of DCB,CID,CIU)
(C.R.No.843 of 2020 of Kandivli Police Station)
(R.A.No.251 of 2020) ...Respondent.

Ld.Counsel Shardul Singh for applicant/accused.
SPP Hire for State/Respondent.

CORAM : H.H.J.Shri.Milind .A. Bhosale

DATE: 20/01/2021 C.R.NO.27

ORDER

This is an application filed by accused/applicant in connection with offences registered against him w/s.409,420,465,468,120(B),174,179,201,204,212 r/w 34 of IPC.

2. According to the applicant FIR No.843/2020 was registered with Kandivali police station against Vishal Bhandari

copy supplied on receipt
d charge file receipt
3700
Pay 2/1/21
28-1-2021
ASS#



20/1/21
Feb 11/21

Ors. for the offences punishable u/s.409,420,120(B) of IPC. As per the information of Mr.Nitin Deokar Dy. General Manager, Hansa Research Group Pvt.Ltd. and thereafter, the Investigation was transferred to the Crime Branch and the FIR was renumbered as C.R.No.143/2020 for offences punishable u/s. 409, 420, 465, 468, 120(B),174,179,201,204,212 r/w sec.34 of IPC. It is further alleged that the applicant was arrested while he was returning Mumbai from Goa and it was disclosed to him that he was arrested in the TRP case and he was produced before Ld.Metropolitan Magistrate, Esplanade Court and he was granted police custody and thereafter he was granted judicial custody. He preferred bail application before Ld.A.C.M.M., 37th Court, Esplanade,Mumbai however, the said application was rejected by the Ld.A.C.M.M.

3. Ld.Counsel for accused/applicant submitted that the accused was arrested by police and seized entire muddemal property. It is pointed out that during the course of investigation police officers seized mobile, Sim card and entire jewelry of the accused/applicant. He drew my attention towards document submitted by application and submitted that the accused/applicant is sufficient source of income, he was purchased the jewelry from his income however, it was alleged that the applicant was purchased jewelry from the amount received by him in the T.R.P. scam. However, the receipt which is submitted by the accused/applicant shows that the accused purchased jewelry much more this FIR. He further submitted that Ld.A.C.M.M. reject bail application on the ground that accused/applicant may tamper the prosecution witnesses however, the prosecution has already seized the laptop, mobile, and Sim card during course of investigation. He further

submitted that in all 14 accused were arrested by police in connection with the present crime however, except this applicant/accused all are released on bail by the Ld.A.C.M.M. and the application of the present applicant/accused is rejected on the ground that the investigation is in progress. He drew my attention towards FIR and submitted that there is no name and allegations against the present applicant in the FIR however, the applicant is arrested by police and kept in jail without any valid evidence. He drew my attention towards sections and submitted that the offence is triable by the Court of Magistrate and the investigation is present matter is over. Lastly, it is submitted that the applicant is suffering from diabetes, from his health, it is necessary to take medicine within time, the accused languishing in jail without any reason. His health condition may be deteriorated. Lastly, he submitted that the accused is permanent residence of Mumbai. He is ready to furnish bail. He is ready to obey the condition impose against him. He prayed that he may be released on bail.

4. SPP Hire submitted that the accused/applicant is mastermind of the present crime. He pointed out that investigation is not yet completed however, chargesheet is filed by the Investigating Officer in the court of Ld.A.C.M.M. with intimation to the Ld. Magistrate u/s.173 (8) of Cr.P.C. Ld.SPP Hire further submitted that during course of investigation, Investigating Officer seized laptop and mobile and the Investigating Officer verify the round of whats up chats. He pointed out that there is voluminous round of chats in between applicant/accused with channel owner and anchor. He further submitted that some round of serious chats was found in the mobile of accused/applicant and to verify the same clearance of



20.1.21

home ministry and permission is required. He submitted that single chat is objectionable but in the mobile so many chats by the applicant with the channel owner and anchors which is not permitted. Ld.SPP further submitted that the applicant in collusion with channel owner and anchor manipulate TRP for getting money, in the present crime the national interest is involved. The accused/applicant act beyond the guidelines and playing with the amount of Rs.32 thousand crore. He pointed out that the channel industry is involved in the present crime and applicant is CEO of the BARC played role by way of mechanism. He manage the data of TRP. Forensic analyzer also pointed out that the certain part played by present applicant while manipulating TRP mechanically.

5. It is further submitted that objectionable voluminous whats up chats disclose that the entire conspiracy in between present applicant, channel owner and anchor of the particular TVchannel. He further submitted that it is not the case of mere manipulation of TRP but it is more than that though the Investigating Officer filed chargesheet against accused then also he wanted to scrutinize the record of whats up chats investigation is in progress to scrutinize the whats up chats in between present applicant and channels. While argument he submitted that after filing chargesheet Investigating Officer filed application before Ld.A.C.M.M. for permission for the investigation to which Ld.A.C.M.M.granted permission to the Investigating Officer to conduct the investigation in judicial custody also. Ld.SPP further submitted that for getting more information from the accused in regards to the whats up chats with channel owner and anchor, it is necessary to conduct investigation on face to face. He pointed out that when the

investigation is in progress then the applicant does not have right to seek the bail on parity ground. He pointed out that if any reason for illness is concerned proper medical facility is already given to the accused. Ld.SPP further submitted that if the accused be released on bail then Investigation Officer could not be in position to scrutinize whats up chats and to verify the whats up chats and to getting out meaning of some whats up chats, it is necessary to conduct investigation with the applicant/accused. He submitted that the applicant/accused is influential person, if he released on bail, he may tamper the prosecution witnesses. He submitted that the serious allegations is levelled against accused and under such circumstances, the accused be released on bail the entire case will be hampered and lastly, it is prayed that the bail may be rejected.

6. After gone through records and submissions on behalf of the parties I drew my attention towards the papers. Admittedly, the offence registered against accused is triable by the court of Magistrate. It is not disputed by the parties that remaining accused arrested by police are released on bail by the Ld.A.C.M.M. Only the application for bail is rejected by the Ld.A.C.M.M. on the ground that investigation in the present crime is in progress. It is to be noted here at the time of bail application, chargesheet is not filed by respondent/State of Maharashtra. However, as per record during investigation laptop, mobile and Sim card were seized by the Investigating Officer and the said laptop, mobile and Sim card are sent to the expert for getting data. After filing this application the data in the laptop and in the mobile were recovered by the Investigating agency and the chargesheet is filed against entire accused in the court of Ld.A.C.M.M., Mumbai. Admittedly, voluminous whats up



Handwritten signature
26.11.21

chat is received by Investigating Officer which is exchange in between accused applicant and owner of T.V.channels. The evidentiary value of whats up chat will be tested at the time of trial. However, Investigating Officer getting much more information from the whats up chat subsequently. When the information received by the Investigating Officer after verification of whats up chat naturally his investigation start from the bottom. It appears from the papers putforth before me it is not the case of simple manipulation of TRP but more than that however, before forming any opinion regarding whats up chats I am of the opinion that through out investigation is required to be necessary. It appears from the whats up chats some code words used by accused/applicant in the whats up chats, to find out meaning of this code words in the whats up chats the accused/applicant is proper person to explain the meaning therefore, face to face investigation is required to be necessary. Apparently, looking into the facts and circumstances, when the entire whats up chats is exchange in between accused/applicant and the channel owner there is some discussion on television TRP rating and the accused being CEO of the BARC is proper person to explain the communication properly to the Investigating Officer. It is true that 14 accused was released by Ld.A.C.M.M.on bail but the case paper in the present crime reflect that the accused is mastermind of the entire crime and he is acting as a capacity of CEO to manipulate the television rating through mechanical device. It is disclose that he is contact with television owner and he exchange some of the whats up message to them when the police official is verify whats up chats. I am of the opinion that the custody of accused is required to be necessary, if at this stage accused be released on bail then every possibility that he may be tampered the prosecution



[Handwritten signature]

witnesses and evidence. In view of material available on record face to face interrogation of accused is required to be necessary. I found that on the sole ground of investigation and tampering of evidence is concerned I am not inclined to exercise my judicial discretion in favour of accused. Hence, I proceed to pass following order.

ORDER

Cri.Bail Application No.56 of 2021 is hereby rejected.

Cri.Bail Application No.56 of 2021 is disposed of.

Date : 20/01/2021

(M.A.BHOSALE)
Additional Sessions Judge
City Civil & Sessions Court
Gr.Bombay

Direct dictated on : 20/01/2021

HHJ Signed on : 20/01/2021



checked by
P. Singh

V. 590
Copy applied on 27/1/21
if noted on: 2
Probable Date. 28/1/2021
Copy Ready on 28/1/2021
De-patched on 28/1/2021

Certified to be a True Copy
Dated this 28th day of JAN 2021
(Signature)
City Sessions Court, Bombay