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MCRC-47235-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 29th OF OCTOBER, 2024MISC. CRIMINAL CASE No. 47235 of 2024*MOHD ALMAS KHWAJA**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Nitin Singh Bhati - Advocate for the applicant.

Shri Bhuwan Gautam - Govt. Advocate for the respondent / State.

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ORDER

The present case is placed before this Court as per the directions of Hon'ble the Chief Justice.

2. Application for hearing during Diwali vacation and application for urgent hearing are taken up.

3. Considering the reasons assigned in the applications, the applications are allowed.

4. This is the first application filed by the applicant under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 for grant of regular bail relating to Crime No.377/2019 registered at Police Station Tukoganj, District Indore (M.P.) for the offence punishable under Section 420, 406 and 34 of Indian Penal Code, 1860. The applicant is in custody since 20/10/2024.

5. As per prosecution story, the applicant was the National Head of Air Dream Telecom Pvt. Ltd., which is a registered Company and is engaged in



the business of providing telecom services such as mobile recharge and online payment retail outlet for various telecom companies viz. Airtel, Idea, Vodafone, etc. Complainant alleged that the applicant and other co-accused persons induced the complainant to become a franchise partner of the Company and the complainant parted with Rs.50,50,000/- in five installments paid to the Company in the year 2014 and thereafter, spent Rs.10,00,000/- for the purpose of establishment of office, however, accused persons despite receipt of Rs.50,50,000/- did not provide any business to the complainant and in this way the accused persons cheated the complainant and misappropriated the amount paid by the complainant for the purpose of providing franchise business. The complainant has further alleged in the complaint that thereafter, a settlement took place between the parties and a land situated in District Lucknow (U.P.) was offered to the complainant, but same was also not transferred in the name of complainant or her husband, therefore, the complainant ultimately lodged the report of cheating and misappropriation against the accused persons including the present applicant and on the basis of the complaint of the complainant Police Station Tukoganj registered an offence under Section 420, 406 and 34 of IPC *vide* Crime No.377/2019 and started the investigation.

6. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in this case. During the investigation the applicant was not arrested and even no notice under Section 41-A of Cr.P.C. was served upon the applicant. He further submits that the transaction was purely a commercial transaction and there was a settlement



between the parties, however, the settlement could not be finalized due to the inaction on the part of the complainant herself. He further submits that applicant has been arrested on 18/10/2024 and produced before the trial Court on 20/10/2024 and since then he is in custody. He further submits that investigation is over and the presence of applicant is not required for the further investigation and no useful purpose will be served by keeping the applicant behind the bar. He further submits that co-accused Rais Khan, who was the alleged Regional Head of the Company had already been granted bail by the III Additional Sessions Judge, Indore in B.A.No.1670/2024 *vide* order dated 27/05/2024 and the allegations against the present applicant are similar to the case of Rais Khan. The trial will take considerable long time to conclude. In such circumstances, he prays for enlarging the applicant on bail.

7. Learned Government Advocate appearing on behalf of the respondent / State vehemently opposed the bail application and submits that there are sufficient evidence available against the present applicant, which shows that applicant was the National Head of Air Dream Telecom Pvt. Ltd. and was duly involved in the transaction. He further submits that it is evident from the Bank Account Statement of the complainant that Rs.50,50,000/- were transferred by the complainant to the account of the Company, therefore, no case for grant of bail is made out.

8. Considering the fact that the transaction took place in the year 2014; during investigation the applicant was not arrested; investigation is almost over, charge sheet has already been filed against the co-accused persons; co-accused Rais Khan has already been enlarged on bail; and the presence of the



applicant is not required for further investigation, without commenting any opinion on the merits of the case, I deem it proper to enlarge the present applicant on bail, therefore, application is allowed.

9. It is directed that applicant shall be released on bail upon furnishing a personal bond in the sum of **Rs.50,000/- (Rupees Fifty thousand Only)** with one solvent surety of the like amount to the satisfaction of the trial Court / JMFC. The applicant shall appear before the concerned trial Court on all the dates as may be fixed by the trial Court without any default. The applicant shall also comply with the provisions of Section 482 (2) of the Sanhita.

10. This order shall be effective till the end of the trial, however, in case of bail jump and / or breach of any of the conditions of bail, it shall become ineffective.

11. Accordingly, this M.Cr.C. stands allowed and disposed off.

Certified copy today itself.

(VINAY SARAF)
JUDGE

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