

(2019) 11 MP CK 0077

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 40793 Of 2019

Ravi Kumar Mohta

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 14-11-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 161, 438, 438(2)
Indian Penal Code, 1860 — Section 34, 406, 420

Citation : (2019) 11 MP CK 0077

Hon'ble Judges : Prakash Shrivastava, J

Bench : Single Bench

Advocate : Ajay Bagadiya, Akash Sharma, Rohit Jain

Final Decision : Allowed

Judgement

Heard on the question of grant of bail.

This is an application filed by the applicant under Section 438 Cr.P.C. for grant of anticipatory bail.

Notice of this application was served on the State counsel. Case diary as per the direction of this Court has been produced for perusal and it is accordingly perused.

The applicant is apprehending his arrest for an offence punishable under Section 420, 406 and 34 IPC registered with Police Station Vijay Nagar Indore in Crime No. 856/2019.

The allegation against the present applicant is that he was running the Dollar Adviser Financial services and he had received the money from complainant for the purpose of rendering advice to invest in share and for intraday trading. Further allegation is that he had persuaded and forced the complainant to invest the amount and had received around a sum of Rs. 1,84,000/- from complainant Channa Keshav and a sum of Rs. 6.46 lakhs and 2.59 lakhs from another

complainant Shravan Kumar and had refused to return the said amount and has committed alleged offence.

Learned counsel for applicant submits that applicant is registered with SEBI as an adviser and that applicant had received the alleged amount from complainant for the purpose of rendering advise for intraday trading which was to be indulged by complainant. He further submits that the amount received toward fee was for rendering the professional advise and that the share trading has its own inherent risk, therefore, on the basis of loss suffered, the applicant cannot be held responsible. He has referred to additional documents, which are filed before this court and have been duly verified from the applicant, in respect of KYC of complainant and the communication dated 20th March 2019 issued by complainant expressing satisfaction to the service rendered. He has also submitted that complainant had filed the complaint before the SEBI with the same allegation and SEBI vide order dated 21/3/2018 had dismissed the complaint by noting that the amount was paid towards the service charges and the complainant had given fee to applicant for using his services. He has also referred to tax invoices which were issued by the applicant from time to time to complainant in respect of receipt of amount. He has also submitted that in one of the case which was registered against the applicant anticipatory bail was granted in M.Cr.C. No. 1003/17.

Shri Akash Sharma learned counsel for State submits that applicant had lured the complainant to make the investment and there is clear proof that applicant had received the money. He has also referred to the statement of Channa Keshav recorded under section 161 of Cr.P.C. and has submitted that against the applicant another case in crime no. 824/19 is registered in police station Vijay Nagar Indore.

Learned counsel for objector has also opposed the application by submitting that one more case in cyber cell at Kolkata is registered against the present applicant and that the applicant had received money from the objector.

Having regard to the submission made by counsel for applicant, I am of the opinion that a case for grant of anticipatory bail is made out.

Accordingly the bail application is allowed and it is directed that in the event of the applicant's arrest, in connection with Crime No. 856/2019, the applicant be released on bail subject to following conditions:

- (1) The applicant will furnish solvent security to the satisfaction of the concerned Magistrate for a value equal to the amount of Rs. 10,00,000/- (Rs. Ten lakhs);
- (2) The applicant will not leave the Country without permission of the competent Court;
- (3) The applicant will fully cooperate during the investigation;
- (4) The applicant would abide by the conditions mentioned in Section 438(2)

Cr.P.C. M.Cr.C. is accordingly allowed.

Certified copy as per rules.