

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46445 of 2023

Applicant :- Mithlesh Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pragya Pandey

Counsel for Opposite Party :- G.A.

With

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45627 of 2023

Applicant :- Mithlesh Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pragya Pandey

Counsel for Opposite Party :- G.A.

With

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45636 of 2023

Applicant :- Mithlesh Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pragya Pandey

Counsel for Opposite Party :- G.A.

With

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45777 of 2023

Applicant :- Mithlesh Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pragya Pandey

Counsel for Opposite Party :- G.A.

With

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45871 of 2023

Applicant :- Mithlesh Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pragya Pandey

Counsel for Opposite Party :- G.A.

With

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46363 of 2023

Applicant :- Mithlesh Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pragya Pandey

Counsel for Opposite Party :- G.A.

With

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46366 of 2023

Applicant :- Mithlesh Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pragya Pandey

Counsel for Opposite Party :- G.A.

With

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46370 of 2023

Applicant :- Mithlesh Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pragya Pandey

Counsel for Opposite Party :- G.A.

With

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46473 of 2023

Applicant :- Mithlesh Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pragya Pandey

Counsel for Opposite Party :- G.A.

With

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46481 of 2023

Applicant :- Mithlesh Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pragya Pandey

Counsel for Opposite Party :- G.A.

With

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46372 of 2023

Applicant :- Mithlesh Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pragya Pandey

Counsel for Opposite Party :- G.A.

With

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45877 of 2023

Applicant :- Mithlesh Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pragya Pandey

Counsel for Opposite Party :- G.A.

With

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45915 of 2023

Applicant :- Mithlesh Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pragya Pandey

Counsel for Opposite Party :- G.A.

With

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45924 of 2023

Applicant :- Mithlesh Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pragya Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia,J.

1. Heard Sri Rakesh Kumar Singh along with Pragya Pandey for the applicant and the learned A.G.A.
2. All the above referred bail applications have been filed by the applicant seeking enlargement on bails.
3. For the sake of brevity, the facts of the Crl. Misc. Bail Application No. 46445 of 2023 are being recorded hereinbelow.
4. The applicant states to have arrested on 15.3.2023 and thereafter he is in judicial custody for trial of an offence registered through FIR No. 0552 of 2017 on 30.9.2017 at P.S. Farah, District Mathura under Sections 406, 420, 467, 468, 471/120-B IPC in which a chargesheet has been submitted on 5.4.2023.
5. The contention of the counsel for the applicant is that the applicant was not named in the FIR No. 0552 of 2017, which is on record at page number 47, wherein, allegations were levelled by the informants that four persons named in the FIR were concerned with the affairs of the company namely Kalpataru Buildtech Company Lmt. having its registered office at Kalpatru House, Churmura Road, P.S. Farah, District Mathura. It was further stated that said four persons qua owner/directors of the company with a view to cheating the investors had fled away with the investment made by the various investors and had closed the company. It was also alleged that the prior to the offence in question these persons had done a similar misadventure at Haryana and had pleased away various amounts from the various innocent investors. In sum and substance, the contention in the FIR was that the company had floated a scheme, wherein, the investors were required to deposit monthly installments of various amounts and on payment of the said installments, the company had promised that they would be given a property and failing which the amount would be returned along with 11% interest. On the basis of the said projection as given by the company various investors had given their various hard earned money. However, neither the money was returned nor the property was given and the company vanished after siphoning

off the various amount deposited by the various investors. It was also alleged that for the performance of the obligation promised, the company had issued bonds for various amounts as disclosed in FIR, however, as the company had fled, the said bonds were also not honoured. Based upon the various allegations levelled by various investors as many as 46 FIRs were registered against the company and the persons who were managing the affairs of the company including Jay Krishan Rana, the husband of the applicant herein.

6. Subsequently, on the basis of the investigation carried out a chargesheet has been filed against the accused on 5.4.2023, wherein, various accused were charged for offences, however, in respect of the applicant herein, she was charged of committing offence under Sections 420, 409, 406, 467, 468 and 471/120-B IPC. The Chargesheet is on record as Annexure No. 2 to the bail application. On the basis of the allegations as levelled in the FIR and on the basis of the facts as narrated in the charge sheet which led to the implication of the applicant with the offence in question. The counsel for the applicant argues that apart from being the wife of the main accused Jai Krishna Rana, the applicant had no concern with the affairs of any company, more so, on the dates on which the offences were alleged to have been committed. The details of applicants involvement with the company are as under:-

S.No.	Director	Periods
1	Kalptaru Biotech Corporation Limited	15.08.2006 to 26.09.2007
2	Kalptaru Agri-Industries Limited (Kaniket Agri-Industries Limited)	21.08.2009 to 25.02.2017
3	Kalptaru Dairy Products Private Limited (Rajkrishan Dairy Private Limited)	28.07.2009 to 01.07.2015
4	Kalptaru Mega Mart Limited	11.06.2008 to 10.10.2012
5	Trishul Motor and General Finance Limited	10.09.2013 to 28.04.2016
6	Vrundavan Securities Limited	29.08.2009 to 28.04.2016

7	Kalptaru Gems Limited	21.09.2013 to 30.03.2017
8	Kalptaru Agro India Limited	13.12.1995 till date
9	Kalptaru Buildtech Corporation Limited	Never been a Director. Only the shareholder of 7,000 shares as per record.

7. In the light of the chart as referred above, the counsel for the applicant argues that in respect of Kalptaru Buildtech Corporation Limited against whom the allegations were levelled in the FIR, the applicant was never a director and held shares to the extent of 7,000 shares. He next argues that in any event, even the chargesheet through which the applicant has been implicated with the offence in question, there is no iota of material to suggest as to which act of the applicant would entitle the prosecution under the relevant sections under which the applicant has been chargesheeted. He next argues that on the basis of the same investigation, the co-accused including the persons who were named in the FIR have been enlarged on bail vide various orders details whereof are as under:-

- (i) Crl. Misc. Bail Application No. 54129 of 2021 dated 15.03.2022.
- (ii) Crl. Misc. Bail Application No. 54216 of 2021 dated 31.03.2022.
- (iii) Crl. Misc. Bail Application No. 8281 of 2022 dated 25.03.2022.
- (iv) Crl. Misc. Bail Application No. 8347 of 2022 dated 25.03.2022.
- (v) Crl. Misc. Bail Application No. 3002 of 2022 dated 28.04.2022.
- (vi) Crl. Misc. Bail Application No. 1251 of 2022 dated 06.05.2022.
- (vii) Crl. Misc. Bail Application No. 20726 of 2022 dated 11.07.2022.
- (viii) Crl. Misc. Bail Application No. 23675 of 2022 dated 25.07.2022.
- (ix) Crl. Misc. Bail Application No. 24554 of 2022 dated 03.08.2022.
- (x) Crl. Misc. Bail Application No. 23883 of 2022 dated 23.08.2022.
- (xi) Crl. Misc. Bail Application No. 23862 of 2022 dated 23.08.2022.
- (xii) Crl. Misc. Bail Application No. 39401 of 2022 dated 21.09.2022.

(xiii) Crl. Misc. Bail Application No. 44939 of 2022 dated 31.10.2022.

(xiv) Crl. Misc. Bail Application No. 53739 of 2021 dated 17.11.2022.

(xv) Crl. Misc. Bail Application No. 23846 of 2022 dated 14.02.2023.

(xvi) Crl. Misc. Bail Application No. 10231 of 2023 dated 02.03.2023 (Gangsters Act).

8. In the light of the said, he argues that on the basis of the material, prima facie, no material exists so as to link the applicant with the offence in question. It is argued that she has been linked only because she is the wife of the main accused and apart from the said fact there is no material to even suggest in the chargesheet as to what act of applicant would make her liable to suffer the trial under the relevant sections under which she is chargesheeted. It is further argued that applicant is a lady and considering the fact that the co-accused named in the FIR have been enlarged on bail in various cases, the applicant should be enlarged on bail. She undertakes to cooperate with the trial.

9. Learned A.G.A., on the other hand, opposes the bail application by arguing that moneys of the core investors have been pleased by the company in leak and collusion with each other and, thus, the offence is very serious in nature and the applicant should not be enlarged on bail. He further argues that the applicant was a beneficiary of the money which was pleased by the company which is evident from the statement of accounts which reveals that certain moneys were transferred in the accounts of the applicant and thus, the submission of the counsel for the applicant, according to the learned A.G.A. merits rejection.

10. Learned A.G.A. does not dispute the fact that the co-accused including the co-accused whose names are mentioned in the FIR have been enlarged on bail in various cases as highlighted by the counsel for the applicant.

11. He further argues that from the bail rejection order, it is clear that during the entire period of investigation, the applicant did not cooperate with the investigation and had started living at Noida and with much difficulty the investigating authorities could trace the location of the applicant and thus, there are chances that the applicant may not cooperate with the trial and may flee away once again. In short, he argues that there is a flight risk of the applicant and that should be enough to reject the bill application.

12. Counsel for the applicant, in rebuttal argues that the details of the amounts in the bank accounts of the applicant have been duly disclosed and quantum of the amounts cannot be in any way link with the offence in question. He argues that being a wife and also an Income Tax payee, the applicant had control over certain moneys and apart from the said, the statement of accounts also do not reveal that the applicant was a beneficiary of the amounts allegedly siphoned off by the company. As regards the other submissions that the applicant did not cooperate with the investigation, the counsel for the applicant argues that the sole property in which the applicant was staying was on mortgage with one finance company India Bulls which have taken steps for selling the property and thereafter, she left Mathura and started residing at Noida she never received any notice for joining the investigation at any point of time and as she was not named in the FIR, there was no occasion for the applicant to inform the I.O. about her whereabouts. It is further argued that the court may put the applicant to such premise as may be found to be just to allay the apprehension of the State that the applicant may not cooperate with the trial. The applicant is in custody since 15.3.2023.

13. Considering the submissions made and recorded hereinabove what emerges is that the applicant was prima facie not a member of the company especially the company which had taken the advances allegedly from the investors, she was only a shareholder to the extent of 7,000 shares, there is no material even in the chargesheet to demonstrate that the applicant was at any point of time managing the affairs of the company or to the effect that the amounts allegedly received by the company were siphoned off by the applicant. It is also not disputed that the co-accused including the co-accused who were named in the FIR have been enlarged on bail, in the bail applications referred in the chart hereinabove.

14. Considering the overall submissions made at the bar and by the reasonings recorded hereinabove, the applicant is fairly entitled to the benefit of bail, more so, because the co-accused have been enlarge on bail, as such, the applicant is enlarged on bail in all the cases referred hereinabove subject to the applicant furnishing two sureties of Rs. 2,00,000/- in all the cases with the following conditions:-

(a) Apart from the said, the applicant shall surrender her passport, if any, with the trial court and shall not leave the country without the permission of the trial court.

(b) The applicant shall further inform the I.O. about the location whereof the applicant is staying on the first day of every month and shall cooperate with the trial.

(c) In case the applicant does not cooperate with the trial, needless to say that the State would be at liberty to take appropriate steps including the steps for bail cancellation, if so advised.

15. All the connected bail applications referred hereinabove are allowed with the same terms and conditions recorded in the present bail application.

Order Date :- 2.11.2023

S.A.