

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5211 of 2015

Smt. Vandana Balasaheb Bhapkar W/o Shri Bala Saheb Bhapkar
Aged About 50 Years R/o CTS No. 1175 Bhakti Paradise Building
No. 3, Link Road, Flat No. 14, Chinchvad, Tehsil Haweli, District
Pune (Maharashtra).

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Rajhara, District
Balod Chhattisgarh.

---- Respondent

For applicant - Shri Prateek Sharma, Advocate.
For Respondent/State – Shri Ashish Shukla, G.A.
For objectors – Shri H.S. Ahluwalia, Shri Vivek Verma, Shri Arvind Dubey
& Shri Ajay Mishra, Advocates.

Hon'ble Shri Justice Goutam Bhaduri

Order

7/12/2015

1. The applicant has preferred this application for grant of bail as she is arrested in connection with Crime No. 78/2015 registered in Police Station Rajhara, District-Balod (C.G.) for offence punishable under section 3, 4, 5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and Section 34 & 420 of the Indian Penal Code & Section 58-F of the RBI Act, 1934.

2. As per the prosecution case, applicant was the Director of Sai Prasad Properties Limited, Sai Prasad Food Limited and Sai Prasad Company Limited. Applicant being Director of the company has collected various amount from 13,49,616 customers and thereafter only have refunded claim to 456 customers. The money were collected and invested in different schemes of company with assurance to deposit the same in recurring deposit, fixed deposit and monthly deposit. Further to few of the

customers they having deposited amount the bonds were issued. According to the prosecution, applicant company was not authorized by the SEBI Reserve Bank to collect amount for like nature and therefore offence is committed under section 3, 4, 5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and Section 34 & 420 of the Indian Penal Code & Section 58-F of the RBI Act, 1934.

3. Learned counsel for the applicant submits that case under the provisions they are not made out and Section 58-F of the RBI Act is not applicable. It is further submitted that even there was no promise was extended to the depositors for assured returns. It is further contended that the case would not attract Section 3, 4 and 5 of Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and it is also submitted that amount so collected were invested and customers were not deceived and the company in lieu thereof after receiving the amount issued bonds and were handed over to the customers. It is further submitted that according to the charge sheet amounts were received under the joint venture, therefore neither there is element of forgery exist nor any fraud has been committed. He further submits that applicant being Director has resigned from the company on 3/07/2014 and therefore she was not at all in the helm of affairs to do the business. He further submits that in view of Section 24 of SEBI and the charge sheet no cognizance can be taken by private complaint and only SEBI was authorised to lodge complaint. He further submits that charge sheet having been filed and applicant is in jail since 14/09/2015, she may be released on bail.

4. Learned State counsel vehemently opposes the prayer for grant of bail and submits that applicant was one of the Director and was in the helm of affairs and the company through it's local agent have collected

amount from the different customers and the money was invested in the recurring deposit, fixed deposit with an assurance to double the amount within a period of approximately six years. Further even after period has lapsed neither money nor any valuables were given to the customers. He further submits that other Directors are absconding and he further submits that if the applicant is enlarged on bail certainly considering the nature of offence, there will be tampering of the evidence.

5. Learned counsels appearing for the objectors also supports the contention of learned State counsel and submits that as a PIL was filed before the jurisdictional court of Gwalior Bench and a direction was issued whereby CBI had made enquiry and found this company has defrauded public at large. Consequently, SEBI by its final order dated 14th January, 2015 has directed to take action and the direction have been given. Consequently, if applicant is enlarged on bail, taking into account nature of the offence and the allegation made, entire evidence will be wiped out.

6. I have perused the case diary and perused the statement recorded. Prima facie it appears that applicant was one of the Director of the company which was Sai Prasad Properties Limited, Sai Prasad Food Limited who collected the amount from the different customers through their agents. Case diary would reveal that two cases were registered at AJAK Police Station Raipur, one at PS Bijapur, one at PS Rajhara the present one, one at PS Rajnandgaon, one at PS Shivrinarayan, one at PS Telibanda Raipur and one at PS Darri, Korba in which similar allegations have been made. It goes to show the net work of the company of collection of amount was spread out through out the State. Order of the SEBI is also perused which is placed on record by learned counsel for the objectors which would show that CBI has also conducted enquiry against

this company and it found that as many as 13,49,616 customers were with the company from whom money was collected and out of the only 456 customers have been given refund claim on completion of the agreement period. Other Directors are still not within the net of the police. Therefore, taking into account all the documents and facts & circumstances and order of SEBI it goes to show that prima facie ground exists that offence is committed and the public at large has been cheated. Gravity of the charge also cannot be ignored. Facts of this case would lead to form the opinion at this stage that danger of accused absconding or fleeing away if released on bail cannot be ruled out. Further more as against the depositors the status of the Directors cannot be compared and the way the offence is committed, considering status and position of the Directors likelihood of tampering of evidence cannot be ruled out, therefore this court is not inclined to release the applicant on bail.

7. Accordingly, the bail application is dismissed.

8. Certified copy as per rules.

Sd/-

(Goutam Bhaduri)

JUDGE