**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO.2008 OF 2016**

Sau. Surekha Bhagwant Kothule .... Applicant

versus

State of Maharashtra ... Respondent

Mr. Aniket Nikam i/b Aashish Satpute, Advocate for the Applicant.
Mr. Rajan Salvi, APP, for the State/Respondent.
Mr. Ashvinkumar Biswas, Advocate for Intervener.
Mr. R.D. More, A.P.I., Gangapur Police Station - present

**CORAM : MRS.MRIDULA BHATKAR, J.**
**DATE : 13th JANUARY, 2017.**

**P.C. :**

1. This application is moved for pre-arrest bail by the applicant/accused. The applicant/accused is prosecuted for the offences punishable under sections 420, 406, 468,120-B of Indian Penal Code, under sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, under sections 36, 73, 74, 75 r/w 447 of the Companies Act, 2013, under sections 17 and 23 of the Securities Contract Act and under sections 12 and 24 of the SEBI Act and under sections 3, 11, 14 of the Maharashtr Ownership of Flats Act in C.R.No. I-161 of 2016 with Gangapur Police Station,

Dist. Nashik. The offence is registered at the instance of Ganesh Desai on 20.08.2016.

2. It is the case of prosecution that one Ganesh Desai gave complaint against applicant/accused and her husband and other co-accused Vinod Balu Patil, Sushant Ramesh Kothule, Bhagwant Kothule, Mahesh Sudhakar Nerkar, Anil Nivrutti Kothule, Ravindra Pundalik Dalvi, Vikas Sarjerao Ravandale, Darshan Vijay Shirsat, Satish Sheshrao Kame and Vijay Lakshman Khunkar on 20/08/2016, pursuant to which the offence was registered on 20.08.2016 at C.R.No. I-161 of 2016 with Gangapur Police Station.

3. It is the case of prosecution that husband of the applicant/accused alongwith the applicant/accused and two Directors Vinod and Sushant represented that they run a company by name House of Investment and if the amount is deposited in the said company, attractive returns would be given to the investors and within 7 days capital amount would be returned on demand. The complainant on believing those representations and the assurances invested amount of Rs.75,000/- and his sisters also

invested Rs.1 lakh and Rs.2 lakhs respectively. However, he had entered into MOU with the husband of the applicant/accused in December 2014 and as per the agreement, the complainant was supposed to get returns till February 2016. However, thereafter from March 2016 he did not get the returns. On demand, no amount was given. On query, the applicant/accused and her husband and other two Directors gave evasive answers and then after enquiry, the complainant found that said company did not have any legal permission in respect of investment and thus, the complainant found that he and his relatives were duped. Hence, he approached the police.

4. The learned counsel for the applicant/accused submitted that applicant/accused is the wife of one of the Directors of House of Investment Company. She is not concerned with the business of the investment company. She is not the Director or in employment of the company. The allegations made against her are false. Her husband Bhagwant Kothule was arrested and released on bail. She being the wife of the accused, is unnecessarily roped in this offence.

5. The learned Prosecutor and the learned Counsel of the complainant opposed the application. The learned Prosecutor submitted that the company has cheated 3800 investors for total amount of Rs.35 crores. It is further submitted that the applicant/accused played active role in contacting investors and encouraged them to invest money in the company. He submitted that police on verification found that Rs.24 lakhs were transferred in her name, though she is a home maker.

6. Perused the papers produced by the prosecution. After going through the complaint and the statements of the witnesses, it appears that the applicant/accused alongwith her husband, used to visit the house of the respective investors and thus, she was active and *prima facie* shows that she has played role in inducement. Her name is specifically mentioned by the investors that she assured investors that they would get their money back and also would get benefits of different schemes. She appears to be beneficiary of the money invested in the scheme.

7. The learned counsel for the complainant has pointed out the order dated 15/12/2016 passed by this Court in Criminal Bail Application No.2447/16 filed by one Priyanka Vinod Patil,

wife of co-Director Vinod Patil. This Court has referred to the observations made by the Orissa High Court in the case of **Preeti Bhatia Vs. Republic of India** dated 16/03/2015 which read as follows:

> *"9.Let us have a bird's eye view as to why investigators of Chit Fund Scam cases were transferred from the State Agencies to CBI. The Hon'ble Supreme Court in the cases of Subrata Chattoraj Vs. Union of India & Ors, reported in (2014) 58 Orissa Criminal Reports (SC) 905 held as follows:*
>
> *"18. More importantly, the question is whether this scam was confined only to those who actively managed and participated in the affairs of the companies or the same flourished on account of the support and patronage of others is an issue that has bothered us all through the hearing of this case......*
>
> *19........All that we need to point out is that investigation into the scam is not confined to those directly involved in the affairs of companies but may extend to several others who need to be questioned about their role in the sequence and unfolding events that has caused ripples on several fronts.*
>
> *22. Suffice it to say, that the scam of this magnitude is going on for years unnoticed and unchecked, is suggestive of a deep-rooted apathy if not criminal neglect on the part of the regulators who ought to do everything necessary to prevent such fraud and public loot. Depending upon whether the investigation reveals any criminal conspiracy among those promoting the companies that flourished at the cost of the common man and those were supposed to prevent such fraud calls for a comprehensive investigation not only to bring those who were responsible to book but also to prevent recurrence of such scams in future".*

8. And also referred to the observations made in the case

of Nimamagadda Prasad, Versus, Central Bureau of Investigation reported in 2013 (7) SCC 466, as thus;

> “Economic offences constitute a class apart and need to be visited with a different approach in the manner of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.”

9. In view of the large number of duped investors and the amount involved therein and role of the applicant/accused, I am of the view that her custodial interrogation is required. Hence the anticipatory bail application is rejected.

**(MRIDULA BHATKAR, J.)**