IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.232/2017
Mr. Chandrasen Ganpatrao Bhise
..Vs..
State of Maharashtra, through P.S.O., P.S. Rajapeth, Amravati, Distt. Amravati

AND CRIMINAL APPLICATION (ABA) NO.234/2017
Mrs. Shobha W/o Ratnakar Barde
..Vs..
State of Maharashtra, through P.S.O., P.S. Rajapeth, Amravati, Distt. Amravati

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Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

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Shri S.V. Manohar, Sr. Adv. with Shri D.V. Chauhan, Adv. for the applicant. (..in ABA No.232/2017)
Shri D.V. Chauhan, Adv. for the applicant. (..in all other applications)
Shri V.A. Thakre, A.P.P. for respondent/State. (..in all applications)

CORAM : Z.A.HAQ, J.
DATE : 14.7.2017.

These applications are disposed of by common order as the applicants in these applications seek pre-arrest bail apprehending arrest in connection with Crime No.789/2016 registered for the offence punishable under Sections 420, 465, 467, 468, 471, 406, 409 and 120-B of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

The crime is registered against 67 persons (including the applicants). According to the investigating agency, the applicants are Directors of Pan Card Clubs Limited, a company registered with the Registrar of Companies, and it is in “Time Sharing Business” which deals in owning, developing and operating hotels, clubs and resorts across India and also offering different time sharing options to those who wish to avail of holidays and hospitality services. The crime came to be registered on the complaint by one of the customer that he is cheated by the company. As the investigation progressed, it revealed that the business, which is started by the company, could not have been started without prior permission of the Securities and Exchange Board of India (for short "SEBI"). In Criminal Application (ABA) No.232/2017 document dated 10th July, 2000 is placed on record at page No.31 which shows that the General Manager of Reserve Bank of India informed the Director of Pan Card Clubs Limited that time sharing companies are not covered under the regulatory jurisdiction of SEBI and the security deposits / advances received by such companies against the facilities / services provided / proposed to be provided, cannot be treated as public deposits as defined under the Reserve Bank of India Act, 1934 and directions issued thereunder. On page No.32 communication dated 20th June, 2002 sent by Pan Card Clubs Limited to the Executive Director of SEBI is placed on the record by which the Pan Card Clubs Limited sought guidance from SEBI. Relying on these documents it is submitted that the company has not indulged in any illegal activity.

The applications are opposed on the ground that huge amount of investors is misappropriated and inspite of restraint orders passed by the SEBI and the

Securities Appellate Tribunal, the Pan Card Clubs Limited has collected huge amount and the money is siphoned / diverted to other companies in which the Directors of Pan Card Clubs Limited are Directors. Paragraph Nos.34 and 35 of the order passed by Securities Appellate Tribunal, Mumbai on 12th May, 2017 are relied to urge that the Pan Card Clubs Limited is liable to repay approximately Rs.7035 Crores to its investors.

Be that as it may, the facts on record show that the applicants Chandrasen Ganpatrao Bhise (applicant in Criminal Application (ABA) No.232/2017) and Mrs. Shobha W/o Ratnakar Barde (applicant in Criminal Application (ABA) No.234/2017) are independent Directors. Though Mrs. Shobha W/o Ratnakar Barde is Director of company since its inception from 1997 alongwith her brother Sudhir Moravekar (co-accused), the non-applicant has not been able to point out that she is Director of any other company in which funds are transferred from the account of Pan Card Clubs Limited after 31st July, 2014 i.e after the order was passed by SEBI clarifying that the business which was being conducted by Pan Card Clubs Limited cannot be conducted without prior permission of SEBI.

Similarly, Chandrasen Ganpatrao Bhise (applicant in Criminal Application (ABA) No.232/2017) became independent Director of Pan Card Clubs Limited on 7th October, 2009 and continued as such till he resigned on 22nd December, 2016. In case of Chandrasen

Ganpatrao Bhise (applicant in Criminal Application (ABA) No.232/2017) the non-applicant has not been able to point out that he had been Director of any company to which money from Pan Card Clubs Limited is transferred after 31st July, 2014.

Chandrasen Ganpatrao Bhise, aged about 79 years, claims that he has worked with Reliance Consultancy since 1990 to 2010 and has stated that he is not involved in any other crime / offence. Mrs. Shobha W/o Ratnakar Barde, aged about 67 years, claims that she has worked with Mumbai Port Trusts and has stated that she is not involved in any other crime / offence.

The non-applicant has not been able to point out that custody of these two applicants is required for further investigation.

Considering the facts of the cases, the following order is passed:

In the event of arrest in connection with Crime No.789/2016 registered by the non-applicant, the applicants - Chandrasen Ganpatrao Bhise and Mrs. Shobha W/o Ratnakar Barde be released on bail on executing P.R. bond for Rs.1,00,000/- (Rs. One Lakh) each and furnishing two solvent sureties in the like amount for each of the applicant.

The applicants shall surrender their passport to the Investigating Officer within two weeks.

In case the applicants are required to go out of India, they are at liberty to seek permission from the Special Court for M.P.I.D., Amravati.

The Special Court may consider the application / applications of the applicants according to law and pass appropriate orders after hearing the investigating agency.

The Criminal Application (ABA) Nos.232/2017 and 234/2017 are **allowed** in the above terms.

JUDGE

Tambaskar.