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

CRIMINAL APPLICATION (ABA) NO.233/2017
Mrs. Usha Arun Tari
..Vs..
State of Maharashtra, through P.S.O., P.S. Rajapeth, Amravati, Distt. Amravati

AND CRIMINAL APPLICATION (ABA) NO.280/2017
Manish Kalidas Gandhi
..Vs..
State of Maharashtra, through P.S.O., P.S. Rajapeth, Amravati, Distt. Amravati

AND CRIMINAL APPLICATION (ABA) NO.281/2017
Ramchandran Ramkrishnan
..Vs..
State of Maharashtra, through P.S.O., P.S. Rajapeth, Amravati, Distt. Amravati

AND CRIMINAL APPLICATION (ABA) NO.279/2017
Sudhir Shankar Moravekar
..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 D.V. Chauhan, Adv. for the applicant.
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 which is taken up for hearing alongwith these applications, copy of 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 of Criminal Application (ABA) No.232/2017 which is taken up for hearing alongwith these applications, copy of 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.

The investigating agency has submitted that apart from Pan Card Clubs Limited, Directors (applicants in these applications) have floated 12 other companies out of which Glamour Hospitality Private Limited is brought into existence on 30th September, 2014 i.e. after orders were passed by SEBI and the Securities Appellate Tribunal restraining the Pan Card Clubs Limited from accepting any amount of deposits from its customers / members and it is alleged that the applicant maneouvered to transfer the amount from Pan Card Clubs Limited to Glamour Hospitality Private Limited. It is alleged that SEBI clarified on 31st July, 2014 that the business conducted by the Pan Card Clubs Limited cannot be conducted without prior permission of SEBI still the applicants formed Glamour Hospitality Private Limited on 30th September, 2014 and amount from the accounts of Pan Card Clubs Limited is transferred to Glamour Hospitality Private Limited.

Considering the above facts, nature of accusations against the applicants and accepting the submission made on behalf of the non-applicant that custodial interrogation of applicants is required to unearth the truth, I am not inclined to consider the prayer made in these applications. The applications are **dismissed**.

JUDGE

Tambaskar.