

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

CRIMINAL APPLICATION (ABA) NO.654 OF 2016
(Lata d/o Ramaji Indulkar and another vs. State of Maharashtra)

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

Shri P. Bezalwar, Advocate for applicants.
Shri H.R. Dhumale, Additional Public Prosecutor for
respondent.
Shri S.S. More, Advocate for intervener.

CORAM : P.N. DESHMUKH, J.

DATED : JANUARY 12, 2017

Heard learned Counsel for both sides.

This application is filed for bail before arrest
in Crime No.230/2016 registered under Sections 409
and 420 read with Section 34 of Indian Penal Code and
Section 3 of the Maharashtra Protection of Interest of
Depositors (In Financial Establishment) Act, 1999 on
6/9/2016.

Shri Bezalwar, learned Counsel for
applicants, submits that applicants are protected by way
of interim bail and are ready to cooperate with
investigation by making available all documents so as to
enable Investigating Officer to sell property owned by
applicant no.2 and to repay the amount involved in this
crime to the depositors. It is submitted that for that
purpose, custodial interrogation of applicants is not
necessary. The learned Counsel for applicants by
placing on record additional affidavit in support of the
application, has also brought on record the fact of

applicants receiving threats by depositors when they attend office of Investigating Officer. It is contended that as investigation is based on documents, no custodial interrogation is necessary and, therefore, application is prayed to be allowed.

Shri Dhumale, learned Additional Public Prosecutor for respondent, has opposed the application by contending that huge amount running into crores of rupees is involved in the present crime and prosecution requires custodial interrogation of applicant no.2 to unearth fact of his investing said amount after accepting it from various depositors. It is also submitted that applicant no.2 is instrumental in destroying the evidence by burning record of his financial scheme of which station diary entry is made with the concerned Police.

In the background of submissions advanced as aforesaid, on perusal of report lodged by Anita Ganvir, it is revealed that in May 2006, applicant no.2 held meeting with complainant wherein he explained certain financial scheme run by him under the name "Shape Mahabachat Gat" and impressed upon complainant and others that if they deposit certain amount in his scheme, after specific period, said amount will be double and as such, depositors would get handsome return. Applicant no.2 gave information with regard to various such schemes floated by him and of opening Branch Offices in the adjoining towns. Accordingly, complainant on various occasions has in all deposited amount of Rs.3,26,900/- and was expecting benefits. However, in spite of maturity period, she was not paid a single pie.

Complainant, therefore, contacted applicant no.2. However, he gave vague reply. Under these circumstances, complaint came to be lodged. After complaint, it is revealed to complainant that apart from her, there are many such depositors, who on registration of Crime, have approached Investigating Officer.

From the case diary it is found that applicant no.2 has received substantial amount from depositors. Statements of complainant and as many as 25 witnesses are recorded to establish direct involvement of applicant no.2. It is also revealed that apart from the Branch at Bhandara, applicant no.2 has opened his Offices at Sakoli, Warthi and Tumsar introducing similar schemes and amount involved is running into crores of rupees. However, no final amount yet could be ascertained pending investigation. From the station diary entry, it is found that on 25/10/2016, applicant no.2 had burnt record of his financial scheme. On receipt of information when Police officials visited the spot situated at Chargaon, they found burnt documents and offences punishable under Sections 201 and 435 of Indian Penal Code as such came to be added in the present crime. Apart from complainant Anita, statements of other depositors including those, who are named in the report and who had also invested huge amount in the schemes floated by applicant no.2 came to be recorded.

Considering the nature of offences wherein applicant no.2's involvement is prima facie established, it is worth to state that investigation cannot be complete without custodial interrogation of applicant no.2. In

that view of the matter, though applicants were initially protected by the order of this Court, dated 19/10/2016 with direction to applicants to attend Investigating Officer for a limited period of one week, that direction by itself is not sufficient to facilitate further investigation, which may require sufficient time considering gravity of offences committed. However, considering the fact that from the report and case diary, there is no much involvement of applicant no.1 noted, who is stated to be first wife of applicant no.2, application is liable to be partly allowed as per order below :

Interim protection granted to applicant no.1 Lata Ramaji Indulkar on 19/10/2016 stands confirmed with direction to applicant no.1 to attend Investigating Officer on each Monday and Wednesday till filing of charge-sheet.

Application of applicant no.2 Moreshwar s/o Ramaji Meshram stands rejected.

At this stage, learned Counsel Shri Bezalwar prays for grant of time of two weeks to applicant no.2 to approach the Hon'ble Apex Court.

Considering the nature of offences, prayer is rejected.

JUDGE

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