

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. CRIMINAL CASE NO. 921 OF 2018

Uma Sharma, W/o Rajesh Sharma, aged about 53 years, R/o 192-B, Santa Colony, Raipur, District Raipur (C.G.)

... Applicant

versus

State of Chhattisgarh, through- Station House Officer, P.S. Saraswati Nagar, Raipur, District Raipur (C.G.)

... Respondent

For Applicant	:	Ms. Fouzia Mirza, Advocate.
For Respondent-State	:	Mr. Ashish Shukla, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09/04/2018

1. The present is an application filed under Section 439 of CrPC seeking for grant of bail to the Applicant who is in jail since 30.8.2017 in connection with Crime No. 82/2011 registered at Police Station- Saraswati Nagar, Raipur, for the offence punishable under Sections 420, 409, 467, 468, 471, 120-B of IPC.

2. Case of the prosecution against the Applicant is that the Applicant in connivance with her husband Rajesh Sharma, the main accused, is said to have collected huge amount of money from the students studying in the different schools run at different places by the Applicant and her husband in the State of Chhattisgarh. Subsequently both of them is said to have abandoned the school without any intimation to any person and fled from Raipur and were absconding for a considerable long period of time. It is a case where the accused persons were running a school in the name of Dolphin International School and they had opened schools at different places in the State of Chhattisgarh by the said name. Subsequently, the school is said to have floated a "Swekchha Jama Yojna" wherein each of the students were given an option for depositing an amount of Rs.50,000/-

and on the said deposit of Rs.50,000/- further education of the students till Class-12th including providing of one pair of uniform and study material each year would not be charged again. Under the said scheme, many parents of the students had deposited huge amount of money running into many crores which were collected by the accused persons and abruptly they closed the school and fled away. They with great difficulty could be tracked down after many years and have since been put in jail.

3. Contention of learned Counsel for the Applicant is that the entire allegations which are reflected from the contents of the case diary would suggest that they are only against the husband of the Applicant and there is no such active role played by the present Applicant in the alleged fraud or cheating committed. It was further contended that the present Applicant in the capacity of wife of the main accused, Rajesh Sharma, was the member of education society and that in fact she was not instrumental in the running of the affairs of the school in any manner nor was she associated in any manner to the said Swekchha Jama Yojna floated by the school authority. Next contention was that even the statements which have been recorded by the police authorities during the investigation would reveal that there are allegations only against Rajesh Sharma, the husband of the Applicant, insofar as collecting the amount under the scheme and that the Applicant has not collected any amount from any of the parents and as such she could not have been implicated in the said case. Lastly, it was contended that the Applicant may be granted benefit of bail on sympathetic ground considering the fact that the daughter of the Applicant is a physically challenged child and that there is nobody to take care of her and the said child as of now is given shelter at one Shakhi One Stop Centre, Raipur. That the said child is not in a position to look after

herself independently and she requires assistance of the Applicant being her mother for every small thing that is required.

4. In support of her contentions, learned Counsel for the Applicant also refers to the judgment of Hon'ble Supreme Court in the case of Sunil Bharti Mittal v. Central Bureau of Investigation, 2015 (4) SCC 609, highlighting the aspect that the Applicant is not directly related to the day-to-day affairs of the school and that there was no intention or occasion on the part of the Applicant in the commission of the offence. Further, that she has been implicated only by virtue of her being the wife of the main accused, Rajesh Sharma and in addition being the member of the said school/society. According to the learned Counsel for the Applicant, in fact the Applicant's role was that of a sleeping partner with all powers and role being exercised by the main accused who is also in custody. Referring to the said judgment, learned Counsel for the Applicant submits that vicarious liability of the Applicant cannot be imputed automatically in respect of an act or offence committed by some other person without the knowledge of the Applicant at all.

5. Per contra, learned Counsel for the State opposing the bail application submits that the role played by the Applicant and the main accused, Rajesh Sharma, is writ large from the documents collected during the course of investigation. He submits that the Applicant under the garb of the said society collected around Rs.55,40,50,000/- from 9155 students in the different schools that were being run by the accused persons in the name of Dolphin International School. He further submits that subsequent to the collection of this huge amount of money, the accused persons including the Applicant immediately abandoned the project and school and fled away from Raipur with no traces whatsoever. Both the accused

persons were declared absconding and they remained absconding for a considerable long period of time. Learned State Counsel also submits that the accused persons both had changed their identity and their respective name and had been living in Hyderabad evading the investigation and the summons which were being issued.

6. So far as the role of the present Applicant is concerned, learned State Counsel submitted that the Applicant was elected as the Chairperson/President of the school committee in the Annual General Meeting that was held on 1.6.2010 and she remained in the said capacity till 30.5.2013. She was the President of the said School between 2009 to 2012 as well. According to the learned State Counsel, the modus operandi was of opening different schools at the different areas in the State of Chhattisgarh and in which process 43 branches of Dolphin International School were opened at different areas in the State of Chhattisgarh and from which the accused persons raised Rs.50,000/- each from 9155 students under the garb of their further education uptill Class-12th with one pair of uniform and study material each year without any additional charge or fees. Learned State Counsel further referred to the documents wherein the Applicant has also signed couple of cheques in the capacity of either President or Secretary/Treasurer of the said society.

7. Further referring to the documents collected during the course of investigation, learned State Counsel submitted that the Applicant had changed her name as Bhagat Lajwanti and was residing in Hyderabad where her husband had changed his name as Rajesh Bhanot and also had changed his name to Bhagat Degra and that they could be arrested only after 5 years from the date of receipt of the complaint and they were arrested from Rangareddy district of Telangana State by the police station

Medchal. It was further contended by the State Counsel that in addition to all the aforesaid submissions there is also a large number of properties acquired by the accused persons from the money collected and the said properties have been purchased in the name of the present Applicant, all of which clearly reflect the role played by the Applicant. He thus prayed for the rejection of the bail application.

8. Having heard the contentions put forth on either side and on perusal of record, given the aforesaid facts and details by the learned State Counsel so far as the capacity of the Applicant in the education society being that of Chairperson/President and at times Secretary/Treasurer, further considering the fact that certain properties were also purchased in the name of the Applicant, moreover the Applicant was also absconding along with main accused and was residing with different names in the State of Telangana and moreover the arrest of the Applicant being made after 5 years, clearly reflects the role of the Applicant also in the alleged transactions and fraud committed by the accused persons. It is this active role played by the Applicant in the transactions which had reflected in the name of the Applicant, which makes the case of the present Applicant distinguishable from the facts of the case referred to by the learned Counsel for the Applicant, i.e., Sunil Bharti Mittal (supra), and in the entire given facts and circumstances of the case, this Court is of the opinion that it is not a fit case for grant of bail to the Applicant.

9. The application for grant of bail stands accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge