

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

CRIMINAL BAIL APPLICATION NO.249 OF 2017

Mrs.Leena Mahesh Motewar	... Applicant
V/s	
The State of Maharashtra	... Respondent

Mr.A.P.Mundargi, Sr.Counsel with Mr.S.D.Paigude i/by Mr.Satyam M. Nimbalkar for the Applicant.
Mr.P.P.Chavan, Spl. P.P. with Mr.S.R.Agarkar, APP for the State/
Respondent.

**CORAM : SMT.SADHANA S. JADHAV, J.
DATE : JUNE 19, 2018.**

P.C. :

1. Heard.
2. This is an application under section 439 of Cr.P.C. The applicant herein is arrested on 10th August 2016, in Crime No. 384 of 2014 at Chatushrungi Police Station, Pune for the offences punishable under Sections 406, 409, 420, 120B of the Indian Penal Code and Sections 3 and 4 of the Maharashtra Protection of Depositors (In Financial Establishments) Act, 1999 (MPID Act), Sections 4,5 and 6 of Prize chit and Money Circulation Scheme

(Banning) Act, 1978 and Section 58(b)(c) of the R.B.I. Act, 1934.

3. It is the case of the prosecution that one Mrs. Sunita Dhanve had filed complaint before the Judicial Magistrate First Class, Pune that she had invested an amount of Rs.5,800/- on 26th June 2009, for the purchase of live-stock from Samruddha Jeevan Foods India Limited. The project was floated by the husband of the applicant. The applicant was appointed as a Director on 29th April 2002, and she has retired as a Director on 15th December 2003. She was having share holding of 17.11% in Samruddha Jeevan. It was alleged that the company has lured investors with lucrative returns and had misappropriated the said amount. The learned Magistrate was pleased to issue directions under section 156(3) of Cr.P.C. pursuant to which Crime No.384 of 2014 is registered at Chatushrungi police station against the present applicant, her husband and the first wife of her husband. The investigation is completed and charge-sheet is filed on 7th November 2016.

4. Learned Senior counsel for the applicant submits that the applicant has a son aged about 11 years, who is suffering from cerebral palsy and is totally dependent on the present applicant.

The child is admitted in a special school, which is run only for the kids suffering from cerebral palsy. The applicant has been in custody for almost two years. Hence, it is prayed that the applicant be enlarged on bail. As against this, learned Special Prosecutor submits that the properties are attached by the Investigating Agency. The list was submitted to the Collector and the proposal is pending with the Government for further action. It is submitted that the applicant happens to be an influential woman and that she would tamper with evidence. It is also submitted that the role of the applicant needs to be considered as she was taking active part in day to day affairs of Samruddha Jeevan Foods; that offences are registered against the applicant and her husband in other states. It is also submitted that taking into consideration the fact that the applicant has been a beneficiary of huge properties and that the investment made by the investors is misappropriated by her to her own benefits such as buying jewellery, luxury car. The applicant does not deserve to be enlarged on bail. The learned special counsel has placed reliance upon the judgment of the Hon'ble Apex court in the case of M prasad Vs. CBI, wherein the Hon'ble Apex Court had observed :

“While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the Legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the Court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage to have the evidence establishing the guilt of the accused beyond reasonable doubt.”

5. This court not oblivious of the fact that in the said case the charge-sheet was not filed and therefore, the Hon'ble Apex Court was constrained to direct the Investigating Agency to file affidavit within four months from the date of the order. In the present case

the applicant has been in custody for two years and therefore, this court is of the opinion that the applicant is deserved to be enlarged on bail.

6. The observations are restricted to application under section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of FIR and discharge application or at the time of trial.

ORDER

- i) The Application is allowed.
- ii) The applicant be enlarged on bail on furnishing PR bond in a sum of Rs.5,00,000/- with one or more solvent sureties in the like amount.
- iii) The applicant shall give an undertaking to this court within two weeks from the date of her release that she will not create any third party interest in any of the properties which are not attached by the Economic Offence Wing.
- iv) The applicant shall mark her present before the Economic Offence Wing every fortnight i.e. on alternative Mondays.
- v) She shall not leave Pune without the permission of the Special Court (MPID).

vi) The application is allowed and disposed of accordingly.

(SMT.SADHANA S.JADHAV, J.)