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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1370 OF 2019

Aziza Juwale ...Applicant
Versus
State of Maharashtra ...Respondent

Mr.S.D.Almeida, for the Applicant.

Ms. Veera Shinde, A.P.P for the Respondent - State.

API – Anand Narayan Shahane, E.O.W. Unit – 1, Navi Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 30th JULY, 2019

P.C. :

1. Heard learned counsel for the parties.

2. By this application, the Applicant seeks her enlargement on bail in connection with C.R.No.466 of 2018 registered with the Nerul Police Station, Navi Mumbai, for the alleged offences punishable under Sections 409, 420, 120B of the Indian Penal Code, under Sections 3 and 4 of Maharashtra Protection of Interest of Depositors Act (MPID Act) and

under Sections 3, 4, 5 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978.

3. Perused the papers. According to the complainant – Yasmeen Nadeem Shaikh, she had invested an amount of Rs.7 lakhs in M/s.Heera Gold Exim Limited having its shop at Centurion Mall, Nerul. It appears that M/s.Heera Gold Exim Limited also had an office at Triveni Apartment, Sector 11, Nerul, Navi Mumbai. According to the complainant, the applicant had induced her and her husband, to invest an amount of Rs.7,00,000/- by promising fixed returns at 3% per month and 36% per year. According to her, initially for a few months, she received returns from the said company, however after a few days, neither the principal amount nor the monthly returns were paid, pursuant to which, the aforesaid complaint was lodged as against M/s.Heera Gold Exim Limited, Nohera Shaikh (Director) and Mubarak Jaan Shaikh (Director) and the present applicant. According to the prosecution, the applicant was the Marketing Executive working with M/s.Heera Gold Exim Limited at their Nerul Office. Admittedly, the applicant was not arrested by the police during the course of the investigation and that only when the applicant appeared before

the Court on 27th February, 2019, at the time of filing of the charge-sheet, the learned Judge, directed that the applicant be sent to judicial custody. According to the prosecution, the applicant was allegedly using her flat at Triveni Apartment, Sector 11, Nerul, Navi Mumbai, as the company's office for correspondence. According to the prosecution, the applicant was working as a Marketing Executive in M/s.Heera Gold Exim Limited. It appears that though the company was registered in Hyderabad, it was revealed during the course of investigation, that the branch office was started by the applicant in Navi Mumbai. No investigation seems to have been done by the police with regard to the transfer of money made by the applicant to other agents and family members. No agent or family members of the applicant have been arrested. It appears that the applicant’s account was frozen and that the said account contained only an amount of Rs.3,76,301/-. According to the learned APP, police are searching for her properties to take action against the applicant, as per Section 4 of the MPID Act. It is not in dispute that the immovable properties of the main accused – Nohera Shaikh and Mubarak Jaan Shaikh to the tune of Rs.39 crores have been attached. The applicant is a lady, aged 74 years. Although charge-sheet is filed, it is informed that investigation under Section 173(8) is still in progress.

4. Having regard to the aforesaid and in particular the fact that the applicant is a lady, aged 74 years, in view of the proviso to Section 437 of the Code of Criminal Procedure, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or two local sureties in the like amount;

ii) The Applicant shall attend the concerned Police Station, as and when called, till the conclusion of the trial;

iii) The Applicant shall not leave the jurisdiction of Mumbai and Thane City, without the permission of the trial Court;

iv) The Applicant before her release, shall deposit her passport, if any, in the trial Court;

v) The Applicant shall inform her latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

vi) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

vii) The Applicant shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial Court;

viii) An undertaking to the aforesaid clauses (ii) to (vii), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of her release;

ix) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court or breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

5. The Application is allowed and disposed of in above terms.

6. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

7. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.