THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.540 OF 2019

O R D E R:

This Criminal Petition is filed under Section 438 of Cr.P.C. seeking grant of anticipatory bail to the petitioner/A.3 in Crime No.113/2018, of Cybercrime Police Station, Rachakonda, Hyderabad, registered for the offences punishable under Sections 406, 420, 506, 120-B of I.P.C r/w Section 66-C, 66-D of Income Tax Act and Section 5 of Andhra Pradesh Protection of Depositors of Financial Establishment Act, l999 and Sections 4 and 6 of Prize Chits and Money Circulation Schemes (Banning) Act, 1978.

2. Heard the learned counsel for the petitioner/A.3 and the learned Additional Public Prosecutor appearing for respondent-State and perused the material available on record.

3. Learned counsel for the petitioner/A.3 would submit that the petitioner/A.3 is innocent and was falsely implicated and the charges against her are without any evidence in support of allegations. There is no specific allegation against petitioner/A.3 in the complaint filed by the *de-facto* complainant and is not a beneficiary to any of the transaction or associated with the alleged companies as Director or Partner. Petitioner/A.3 married A.1 in February 2018 and is only house-wife and no way involved in the affairs of the companies floated by A.1. There is vague and passing allegation on petitioner/A.3 by the *de-facto* complainant and petitioner/A.3 was selectively included in F.I.R as A.3. Though the *de-facto* complainant specifically alleged the role of Ratna Saroja, her name was not included as accused or as witness. There is no allegation on petitioner/A.3 of indulging in collection of deposits except that she is the wife of accused No.1, and ultimately prayed to grant bail by allowing the petition.

4. On the other hand, learned Additional Public Prosecutor submits that this petitioner/A.3 is the wife of A.1 and she also is an active participant in the business being carried out by A.1 & A.2. There are specific allegations against petitioner/A.3 of collecting huge monies from the disciples and the public. Petitioner/A.3 is not at all innocent to grant bail under Section 438 of Cr.P.C and ultimately prayed to dismiss the application.

5. As per the material on record, one Smt. Kodakandla Swapna gave complaint and the same was received on 28.11.2018 by the Cyber Crimes Police Station, Rachakonda. Basing on the said complaint, the case was registered against A.1 to A.3. Petitioner/A.3 is the wife of A.1. A.1, A.2 and petitioner/A.3 and others have conspired with each other, induced and cheated the innocent people under the guise of Advaita Spiritual Recharge Centre for Excellence. A.1 started number of shell companies and with the help of his brother A.2, fraudulently collected deposits in crores of rupees towards investment in their Dream Bridz Multi Level Social Trade Company and other shell companies through online and offline with dishonest intention and did not start any business even after passing of one year and cheated the followers and committed breach of trust. A.1 and A.2 collected huge money to the tune of Rs.50 to 60 crores from the disciples and the innocent public fraudulently in the name of dubious companies floated with false promises of giving huge profits. The business that is being carried by the company is a doubtful one. The A. 1 and A.2 have also purchased diamonds, gold and jewellery running in crores of rupees and spent huge amounts lavishly. During the course of investigation it has come to light that petitioner/A.3, who is the wife of A.1, is also having shares in the company and she is also one of the Director of the company and she was the HR Manager for Cosmikent Techo Solutions Pvt. Ltd., and other companies and acted on behalf of her husband A.1 when he was in judicial remand and she forced

her company secretary to wind up the companies. Sometimes the clients and customers used to give their deposits directly in cash to A.1 and his wife petitioner/A.3 and his brother A.2.

6. At this juncture, it is apt to cite a Judgment of the Hon'ble Apex Court in **Shri Gurubaksh Singh Sibba & Others v. State of Punjab**[1] wherein a Constitution Bench of the Apex Court, held as follows:

> "It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail. ...Therefore, the High Court and the Court of Session to whom the application for anticipatory bail is made ought to be left free in the exercise of their judicial discretion to grant bail if they consider it fit so to do on the particular facts and circumstances of the case and on such conditions as the case may warrant. Similarly, they must be left free to refuse bail if the circumstances of the case so warrant, on considerations similar to those mentioned in Section 437 or which are generally considered to be relevant Under Section 439 of the Code. ...The judicial discretion granted under Section 438 should not be read down by reading into the statute conditions that are not to be found therein. ... The courts have to be allowed a little free play in the joints if the conferment of discretionary power is to be meaningful..."

7. From the record, it is clear that petitioner/A.3, being the wife of A.1, involved in the businesses of the companies dubiously floated by A.1 and A.2. The gravity of the offence committed by the petitioner/A.3 in connivance with A.1 and A.2 is high and grant of bail will certainly cause hindrance to the investigation process in collection of documentary evidence. The amount involved is of large magnitude and there are specific allegations of the petitioner/A.3 indulging in the business activities of A.1 and A.2. The release of petitioner/A.3 under Section 438 of Cr.P.C would certainly create obstacles in collection of material evidence. If the petitioner/A.3 is set free, there is possibility of tampering the records and maneuvering

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[1] (1980) 2 SCC 565

with the witnesses. Further, it cannot be held that the petitioner/A.3 is innocent and not connected to the business affairs of A.1 and A.2. Viewed from any angle, it is not a fit case, to consider the case of the petitioner/A.3 for grant of bail.

8. Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions, if any pending, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date:15.02.2019
Grk

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

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