

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Criminal Application (BA) No. 175 of 2021

(Nasreen Faizi Sheikh **..vs..** State of Maharashtra, through P.S.O., P.S. Tehsil, Tq. & Dist. Nagpur)

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

Court's or Judge's orders

Mr. P. A. Nemade, Advocate for the applicant
Mr. N. S. Rao, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.
DATED : 14-10-2021

The applicant is arraigned as accused 3 in Crime 94/2020 registered with Police Station, Tehsil, Tahsil and District Nagpur for offences punishable under Sections 120-B, 406, 409 and 420 read with Section 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

2. The applicant Nasreen is the wife of accused 1 Faijee Moin Shaikh. Accused 2 is Rizwana Ishak Khan and the submission of learned counsel for the applicant Mr. Pravin Nemade is that accused 1 Faijee was in an illicit relationship with Rizwana and has subsequently married her in the year 2015.

3. The substratum of the prosecution case is that the accused promised needy persons huge loan from the Bhartiya Apanga Co-operative Society (Society), induced such persons to deposit or pay huge amounts ostensibly as processing and other charges and on one pretext or the other, neither advanced the loan promised nor returned the amount paid.

4. The applicant was the President of the Society from 2013 to 2018. While the submission of the learned counsel Mr. Pravin Nemade is that the applicant was a nominal figurehead and it was her husband and accused 2 Rizwana, who controlled the Society, the prosecution has a contrarian narrative. The learned Additional Public Prosecutor Mr. Rao invites my attention to certain statements which reveal that the applicant accompanied her husband and Rizwana along with other Directors of the Society to conduct valuation of the residential house of the complainant Mr. Malu and the mine of another victim.

5. I have scrutinized the material in the charge-sheet. The statements of witnesses reveal that the prominent role is attributed to accused 1 Faijee and accused 2 Rizwana. I would refrain consciously from making any further observation on the role of Faijee and Rizwana, as is discernible from the charge-sheet, lest, the said accused are prejudiced, if and when, they exercise their right of applying for bail. Suffice it to say, that the submission of Mr. Pravin Nemade that the applicant is a conservative Muslim wife, who did as was told to her by accused 1 Faijee, cannot be brushed under the carpet, at this stage. It would ultimately be for the trial Court to come to an appropriate conclusion.

6. Even, if it is assumed that there is a *prima facie* case, and a strong *prima facie* case at that, against applicant Nasreen, there are two circumstances which weigh in favour of granting her bail. The first is that she is a woman who has spent a substantial period in detention and the second is that she has three children, the youngest being 7 years old. The applicant's husband Faijee is in jail. Resultantly, presently, the three children

have neither their father nor the mother who can look after them.

7. Considering the role attributed to the applicant as is discernible from the material on record and the peculiar features noted supra, I am exercising discretion in her favour.

8. The application is allowed subject to the following conditions.

(a) The applicant be released on bail on furnishing PR bond of ₹ 16,000/- (Rupees Sixteen Thousand) with solvent surety of like amount.

(b) The applicant shall not tamper with the evidence or make any attempt to influence the witnesses, directly or indirectly.

(c) The applicant shall not leave the country without the permission of the jurisdictional Court.

(d) The applicant shall attend Office of Economic Offences Wing, Nagpur as and when called by the Investigating Officer.

JUDGE

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