**<u>IN THE HIGH COURT OF JUDICATURE AT BOMBAY</u>**
**<u>NAGPUR BENCH, NAGPUR</u>**

**<u>CRIMINAL APPLICATION (BA) NO.531 OF 2021</u>**

(Smt. Archana w/o Gopal Teke Vs. The State of Maharashtra thr. PSO PS Kotwali, Nagpur)

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| *Office Notes, Office Memoramda of Coram, appearances, Court's orders of directions and Registrar's Orders.* | *Court's or Judge's orders.* |
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Mr. R. R. Rajkarne, Advocate for Applicant.
Mr. N. R. Rode, APP for Non-Applicant/State.

**<u>CORAM</u>: <u>ROHIT B. DEO, J.</u>**
**<u>DATE</u>: <u>8th SEPTEMBER, 2021.</u>**

The applicant – woman is one of the Directors of Jai Shriram Urban Credit Cooperative Society. It appears that pursuant to an application preferred by Mr. Dinesh Pedgaonkar under section 156(3) of the Code of Criminal Procedure and the directions issued by the learned Magistrate vide order dated 01.07.2019, Crime 217/2019, for offences punishable under sections 409, 420, 467, 468, 471, 120(B) of Indian Penal Code read with section 3 of Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act ('MPID Act'), is registered.

2. While the charge-sheet is quite bulky, according to the learned counsel Mr. Rajkarne, there is no material to *prima facie* inculpate the applicant in the crime.

3. Mr. Rajkarne, would submit that the

crime is registered, at least against the applicant herein, only on the basis of the observations in the audit report and *de hors* the audit report, there is no other material to substantiate the allegations. The learned APP Mr. Rode fairly does not dispute that the primary material against the applicant is the audit report. Mr. Rode adds that the signatures of the applicant on the proceedings of the Board of Directors is the additional incriminating material.

4. I have perused the observations of the audit report. The main allegations are against the then President, the Manager and one Mr. Vitthal Mehar. In so far as the applicant is concerned, the observation is that the Board of Directors remained silent spectator and failed in the collective responsibility in preventing financial irregularities.

5. *Prima facie*, while the applicant may be vulnerable to some action, if at all, under the provisions of Maharashtra Co-operative Societies Act, 1960 or any other statute, the fact that he was a Director may not be sufficient to connect him with the crime alleged. This of course is a *prima facie* observation made for the limited purpose of

considering entitlement to bail. Assuming that the applicant, along with other Directors, was present in some meetings as appears to be the prosecution case, that in itself again, is not sufficient to suggest criminal culpability.

6. In any event, it is not even the case of the prosecution that the applicant is a flight risk or that he has adverse antecedents.

7. I do not see any propriety in continuing with the incarceration.

8. The application is allowed.

9. The applicant be released on bail in connection with Crime 217/2019 for offences punishable under sections 409, 420, 467, 468, 471, 120(B) of Indian Penal Code read with section 3 of Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, on executing PR bond of Rs.16,000/- (Rupees Sixteen Thousand) with one solvent surety of the like amount.

10. The applicant shall attend each and every date of hearing scrupulously. Failure to attend the dates of hearing may entail cancellation of bail, unless the absence is condoned/exempted by the trial Court.

11. The applicant shall not, directly or indirectly, make any attempt to influence the witnesses or otherwise tamper with the evidence.

12. The applicant shall not leave the country without the permission of the trial Court.

**JUDGE**

NSN