

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

CRIMINAL APPLICATION [ABA] NO.334/2021.

Chandrasen Ganpatrao Bhise.

-VERSUS-

The State of Maharashtra, P.S. Ganeshpeth, Nagpur and another.

CRIMINAL APPLICATION [ABA] NO.331/2021.

Shobha Ratnakar Barde.

-VERSUS-

The State of Maharashtra, P.S. Ganeshpeth, Nagpur and another.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri S.P. Sonwane, Advocate for Applicants.
Shri M.J. Khan, A.P.P. for Non-applicants.

CORAM : VINAY JOSHI, J.

DATE : AUGUST 23, 2021.

Heard.

2. Both applications arise out of Crime No.306/2018, registered with the non-applicant no.1 – Ganeshpeth Police Station, Nagpur for offence punishable under Sections 406, 409, 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 (MPID Act). In anticipation of their arrest,

2

applicants are claiming pre-arrest protection. This Court has granted interim protection to applicant – Chandrasen Bhise in Criminal Application No.334/2021, which is prevailing till date.

3. It is precisely argued that applicants are independent Directors i.e. Non-Executive Directors, meaning thereby they have no role in the affairs of the Company. Applicants have neither took any active part in the management, nor they were decision making authority. Applicants have not received any benefit from the Company. Moreover, applicants who are old aged person have canvassed about their ailments while claiming protection.

4. The State has resisted both applications by filing separate reply-affidavits. It is contended that applicants have committed serious offence which involves Crores of rupees. Thousands of innocent investors have been cheated in a systematic manner. Applicants along with co-accused have siphoned money causing loss to the

3

innocents. Similar type of offences are also registered against them. Applicant's custody is necessary to recover huge amount and to find out about its investment. So also it is contended that applicants may flee from justice or would tamper with the prosecution evidence, if the relief prayed for is granted.

5. At the instance of report dated 26.07.2018, lodged by one of the investor namely Bhaisare, the crime came to be registered. It is his contended that co-accused Indurkar has informed about Panorama Group of Industries i.e. Pan Card Club Limited and about its various schemes. Co-accused Indurkar, who was acting as an agent of Pan Card Club Limited has promised to the informant and various investors to invest the money in the Firm of booking Hotel Rooms, and on its non-utilization, refund of high returns. According to the informant, on believing the promises he has invested an amount of Rs.50,400/- with the Company. On its maturity, he was

4

supposed to get assured sum of Rs.70,560/-, however, it was not returned. The informant had visited the Company's Branch office at Nagpur, but, he could not get the returns. He learnt that SEBI has started enquiry about the Company and issued various directions.

6. It is the contention of applicant Chandrasen, that he was a nominal Director i.e. Independent Director of the Company. He being a Non-executive Director, was not part of any decision making process in the Company. He remained as formal director and had already resigned from the Company on 22.12.2016. It is his submission that the main Executive Director and the sole authority was Sudhir Marvekar. In order to substantiate said contention, copy of Form No.31 is tendered to show that the applicant was shown as Non-executive Director in the Company.

7. On the other hand, the learned A.P.P. took me through the orders passed by SEBI to

impress that already action was taken against the Company due to irregularities. All the Directors of the Company were restrained from accepting the securities from the market. It is submitted that both applicants being Directors, are equally responsible for the misappropriation. It is submitted that thousands of innocent persons were lured of high returns and were being cheated. Besides said submission, the State has not been able to point out that applicants have received any amount from the Company, nor any material is pressed into service to show that applicants were Directors of any other Company to which money from Pan Card Club Limited has been transferred.

8. It reveals that several offences were registered against applicants and other Directors of the Company. Applicants have produced copy of common order passed by this Court in Criminal Application (ABA) Nos. 232/2017 and 234/2017 to indicate that in another Crime No.789/2016, this Court has granted pre-arrest protection to

applicants. Likewise, copy of Criminal Bail Application No.2042/2017 is produced to show that applicant Chandrasen got pre-arrest protection in one another crime. It is also pointed out that the applicant Shobha Barde (Criminal Application No.331/2021), also procured pre-arrest protection in Crime No. 98/2017 from Special Court at Mumbai.

9. It is required to be noted that applicant Chandrasen is 83 years of age, whilst applicant Shobha is 72 years of age. Having regard to their advance age, there is no reason to disbelieve their contention about various ailments. Prima facie, besides they being impleaded as formal Directors, there is nothing on record. The applicant Shobha has explained that she was sister of the Executive Director Marvekar and for name sake she has been made a Director. One of the bail order bears reference that 91 immovable properties of the Company and its Directors worth Rs.2792 Crores had already been seized. Likewise 334 Bank

accounts containing crores of rupees are freezed. The process is going on since long. No substantial reason has been canvassed to have custodial interrogation of applicants. In absence of any specific material, applicants liberty cannot be curtailed, especially when both applicants are above 70 years of age. They can be directed to join the smooth process of investigation by granting protection.

10. Considering all these facts, following order is passed :

- (i) Criminal Applications are allowed and disposed of.
- (ii) In the event of attest of applicants/accused – Chandrasen Ganpatrao Bhise (Criminal Application No.334/2021) and Shobha Ratnakar Barde (Criminal Application No.331/2021), in connection with Crime No.306/2018, registered with the non-applicant no.1 – Ganeshpeth Police Station, Nagpur for offence punishable under Sections 406, 409, 420 read with Section 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection

8

of Interest of Depositors (in Financial Establishments) Act, 1999, they be released on bail on their furnishing P.R. Bond in the sum of Rs.1,00,000/- each with one surety in the like amount.

- (iii) Applicants/accused shall surrender their Passports to the Investigating Agency within a period of two weeks from the date of this order, if not already surrendered.
- (iv) Applicants/accused shall not leave the Country without prior permission of the Special Court.
- (v) Applicants shall attend the office of the Investigating Officer, as and when called for.
- (vi) Applicants/accused shall not tamper with the prosecution evidence in any manner.
- (vii) Breach of any of the conditions, would give liberty to the prosecution to move this Court for cancellation of bail.

Rgd.

JUDGE