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

CRIMINAL APPLICATION (BA) 529 OF 2021
(Syra w/o. Jose Robert Alvares..vs..State, thr PSO, Cyber Cell, PS Gittikhadan, Nagpur)

Office Notes, Office Memoramda of Coram, appearances, Court's orders of directions and Registrar's Orders. *Court's or Judge's orders.*

Mr. Amit A. Choube, counsel for applicant.
Mr. A. Sudame, counsel for intervenor.
Mr. N.R. Rode, APP for applicant /State.

CORAM: ROHIT B. DEO, J.
DATE:27.08.2021.

Heard.

2. The applicant is seeking bail in connection with Crime 554/2020, registered with Police Station, Cyber Cell, Gittikhadan, for offences punishable under sections 384, 419, 420, 468, 471, 120-B read with section 34 of Indian Penal Code and sections 66C and 66D of the Information Technology Act, 2000.

3. The crime is registered on the basis of report lodged by Colonel Aivan Singh Samsher Singh (retired) alleging that his wife Mrs. Reena Justina Newton, a retired member of the Indian Nursing Services is duped by cyber criminals. The *modus operandi* alleged, is

that Mrs. Reena got acquainted with one Dr. Danny Morer on social media, phone numbers were exchanged and the two started conversing on WhatsApp. Mr. Danny conveyed to Mrs. Reena that as a token of friendship, he has sent a gift and forwarded the courier slip to her on WhatsApp. Mrs. Reena then received phone calls from one Puloku Khulu, who pretended to be from the customs department at Delhi and asked Mrs. Reena to deposit 500 dollars to have a parcel released. She further informed Mrs. Reena that fine of ₹ 4 lacs is payable since the parcel contained currency in pounds and Mrs. Reena would otherwise face prosecution under the Money Laundering Act. Mrs. Reena immediately deposited 500 dollars in the bank account disclosed by the caller. She obviously received no parcel. Thereafter, Mrs. Reena was induced to deposit various amounts aggregating to ₹ 42,40,000/-(Forty Two Lacs Forty Thousand) in seven different accounts. One of the seven accounts is in the name of the applicant.

4. Mr. Amit Choube, the learned counsel, who appears on behalf of the applicant, would submit that the applicant is a woman and even if the entire prosecution case is taken at face value, she is not involved in forgery, with the result that the maximum punishment which conviction may entail, is seven years. It is submitted that the applicant is in custody since 29.10.2020 and that appropriate conditions may be imposed to ensure that she cooperates in the investigation and is available to face the trial.

5. The application is strongly opposed by the learned APP Mr. N.R. Rode and Mr. Akshay Sudame, the learned counsel, who appears on behalf of the informant. Mr. Akshay Sudame points out that the applicant is facing at least three similar accusations in crimes registered in the States of Haryana, Punjab and Gujrat.

6. Perusal of the material in the chargesheet indeed discloses a strong prima facie case. This off

course is an observation made strictly for the purpose of the present application. However, the discretion of the Court, particularly, if the accused is a woman, is not fettered *ipso facto* by the existence of a strong *prima facie* case. The trial is not likely to be concluded early. Several accused and indeed the prime accused, are not an Indian nationals and it is reported that they have secured default bail and no condition is imposed by the Court granting the compulsive bail to ensure that the Nigerian co-accused do not evade the process of law. The applicant is an Indian national, who is a permanent resident of Goa. Conditions can be imposed to ensure that she cooperates with the Investigating Agency and is available to face the trial. Considering that the possibility of an early trial is remote, further incarceration would be in the nature of pre-trial punishment.

7. Considering the totality of the circumstances, I am inclined to grant bail.

8. This application is allowed subject to the following conditions:

(i) The applicant be released on bail in connection with Crime 554/2020, registered with Police Station, Cyber Cell, Gittikhadan, for offences punishable under sections 384, 419, 420, 468, 471, 120-B read with section 34 of Indian Penal Code and sections 66C and 66D of the Information Technology Act, on executing PR bond of Rs. 16,000/- (Rupees Sixteen Thousand) with one solvent surety of the like amount;

(ii) The applicant shall, within 48 hrs of her release, furnish to the Investigating Officer her phone numbers and residential address and keep the Investigating Officer posted of any change;

(iii) The applicant shall mandatorily attend the Cyber Crime Police Station, Civil Lines, Nagpur on the 1st Monday of every calendar month, and she shall further attend the said Police Station as and when required by the Investigating Officer;

(iv) The applicant shall deposit her Passport, if any, with the Investigating Officer, within 48 hours of her release;

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

(vi) The applicant shall not leave the country without the permission of the trial Court.

Judge

Belkhede