**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 838 OF 2023

SONIYA W/O. SOMNATH RAUT
VERSUS
THE STATE OF MAHARASHTRA.
...
Mr. Satej S. Jadhav, Advocate for applicant.
Mr. K.S. Patil, APP for respondent.

CORAM : S.G. CHAPALGAONKAR, J.

RESERVED ON : 26th September, 2023
PRONOUNCED ON : 3rd October, 2023.

ORDER :-

1, The applicant seeks regular bail in connection with Crime No. 1046 of 2021 dated 4.12.2021, registered with Tofkhana Police Station, Dist. Ahmednagar for the offences punishable under Sections 406, 420, r/w. 34 of IPC and section 3 of the M.P.I.D. Act.

2. The investigation was set in motion on the basis of the information given by Mr. Satish Baburao Khodwe. In nutshell, he alleges that he is in the business of advertising. Accused – Somnath Raut had contacted with him for publishing advertisement in the digital magazine. Since then, they had cordial relations. Accused Somnath lured him for making investment in his company i.e. BIG MEE India Pvt. Limited through Fund Pay Wallet. On his initial investment of Rs. 1 Lakh, he received returns @ Rs. 300 per day. Thereupon, the applicant was

receiving telephone calls from the employees from BIG MEE luring him to make further investment projecting handsome returns. The informant succumbed to such assurances and made further investment of Rs. 1 Crore 56 Lakhs. Although initially, the informant received returns per day as agreed. However, since July, 2021, there was default. The informant was assured regular deposit of returns by 31st August, 2021. However, thereafter, the office of the company was found locked and the contact numbers were not reachable. The house of the accused was also locked. The children of the accused were with the father in law of accused Somnath. The informant came to know that large number of persons have made investment, lured by the assurances of exponential returns. The total investment was estimated to Rs. 7,88,64,500/- from the various investors and all of them are defrauded by the accused.

3. The investigation progressed in pursuance of the aforesaid crime. On 18.2.2022, accused Somnath Raut has been arrested. The applicant has been arrested on 28.6.2022. After due investigation, charge sheet came to be filed against in all 7 accused persons. The prayer of the applicant for grant of regular bail has been rejected by the Sessions Court vide order dated 3.4.2023. Hence, the present application.

3. Mr. Satej Jadhav, learned counsel appearing for the applicant would submit that the applicant is unconcern with the crime in question. She has been falsely implicated only because, she is wife of accused Somnath Raut against whom there are allegations of cheating. He would submit that the investigation is complete. The charge sheet is filed. The applicant is behind bars for more than 15 months. Her children are aged about 7 years and 11 years. They need her company. He would point out

that although the applicant is alleged to be a Director of the company, she is not involved in day-to-day business. The contents of the FIR would show that applicant has not personally lured the informant. The investments were made by investors on persuasion of the employees of the company. The applicant is not the beneficiary of such investment. He would, therefore, urge to release the applicant on bail.

4. Learned APP strongly opposes the plea of bail on the ground that applicant is the Director of the company alongwith her husband Somnath. He would submit that in this crime, large number of investors are duped. The investment of more than Rs. 7 to 8 Crores is generated from poor investors and that has been siphoned. The Certificate from Registrar of Companies confirms that applicant is the Director of the company. The statement of witnesses recorded during the course of investigation specified the role of the applicant in bringing the investment. The flow chart of money trail would show that amount of Rs. 3,73,000/- has been transferred from the account of the company to the applicant. That shows her personal gain. He would, therefore, urge that the applicant, alongwith her husband Somnath are responsible for cheating the investors. As such, her release may propagate wrong signal in the society.

6. Having considered the submissions advanced, apparently, the contents of the FIR alleges main role against accused Somnath Raut and the employees of the company, who lured the informant to invest huge amount of Rs. 1.56 Crores. The contents of the FIR are silent regarding role of the applicant. However, fact remains that she is a Director of the company, as per the certificate issued by the Registrar of Companies. During the course of investigation, the statements of various investors are recorded, wherein, allegations are made that the investors were persuaded by the employees of the company, namely, Shalman David Gaikwad and CEO of the company – Vandana Palve. Few statements show that they had a talk with the applicant. However, prima facie, such allegations are general and without any particulars.

7. The money-trail-report submitted by Prasad Kulkarni and Company, Chartered Accounts, before this court shows that the amount of Rs. 3,73,505/- has been transferred to the applicant's bank account from BIG MEE India Pvt. Ltd. during the period 27.10.2020 to 4.2.2021, whereas, an amount of Rs. 38,97, 074/- has been transferred to accused Shalman Gaikwad from January 2017 to June 2022. Similarly, account of accused Vandana Palve shows that a total amount of Rs. 44,86,608/- has been routed through her account. The other accused persons appears to have received amount of upto to Res. 3.5 Lakhs. Considering the trail of money transfer, it can be gathered that although the applicant is a Director of the Company, marginal amount has been received to her personal benefit. Although, prima facie, the aforesaid evidence is sufficient to show the complicity of the applicant in the offence in question, it is doubtful whether, she was actively involved in the commission of offence and she is the beneficiary of fraud. Pertinently, by order dated 19.12.2022 of this Court, accused Vandana Palve, Shalman Gaikwad have been released on bail. The applicant is behind bars for more than 15 months. She is a lady, having two children. The trial will take its own course. The investigation in the matter is complete. In that view of the matter, further detention of the applicant may not be necessary. However, considering the nature of the offence, certain stringent conditions are required to be imposed, while releasing the

applicant on bail. Hence, the following order.

ORDER

(i) The application is allowed.

(ii) The applicant – Soniya Somnath Raut be released on bail on furnishing P.B. and S.B. of Rs. 1,00,000/- with one solvent surety of the like amount, in crime No. 1046 of 2021 dated 4.12.2021 registered with Tofkhana police station, Dist. Ahmednagar, for the offences punishable under Sections 406, 420, r/w. 34 of IPC and section 3 of the M.P.I.D. Act. on the following conditions :-

[a] The applicant shall attend the trial on each and every effective date.

[b] The applicant shall not leave the State of Maharashtra without the permission of the Sessions Court, Ahmednagar.

[c] The applicant shall furnish details of her residents and contact number/s with the concerned police station and regularly update the same.

[d] She shall visit the concerned police station on 15th of every month, between 10.00 a.m. and 2.00 p.m. till conclusion of the trial.

[e] It is made clear that the observations made herein above are on prima facie consideration of the material on record and only for the purpose of deciding this application.

[f] The application stands disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-