$~SB 1

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 20th January, 2023***

\+ **BAILAPPLN. 3643/2022 & CRL. M. (BAIL) 1488/2022**

DR. BINDU RANA ..... Petitioner

Through: Mr. Neeraj Krishan Kaul & Mr. Saurabh Kirpal, Sr. Advocates with Mr. Gautam Khazanchi, Mr. Anuj Aggarwal & Mr. Shubham Kumar Jain, Mr. Kaushal Kait, Mr. Jatin Yadav, Mr. Toshiv Goyal, Advocates

versus

SERIOUS FRAUD INVESTIGATION OFFICE ..... Respondent

Through: Mr. Anurag Ahluwalia, CGSC with Mr. Abhigyan Sidhant, GP Mr. Arib Ansari, Prosecutor, (SFIO), Mr. Tarun Srivastava, Mr. Vishal Shrivastava, Ms. Shivani Sharma, Advocates

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J *(Oral)*

1. The present application is filed seeking regular bail in an arrest under Section 212(8) of the Companies Act, 2013 (hereinafter referred as "**the Companies Act**"), in relation to the investigation being conducted by Serious Fraud Investigation Office ("**SFIO**") for offence(s) under Section 447 of the Companies Act, 2013. Section 447 of the Companies Act reads as under:

*"447. **Punishment for fraud***

Without prejudice to any liability including repayment of any debt under this Act or any other law for the time being in force, any person who is found to be guilty of fraud, [involving an amount of at least ten lakh rupees or one per cent of the turnover of the company, whichever is lower], shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud:

Provided that where the fraud in question involves public interest, the term of imprisonment shall not be less than three years.

[Provided further that where the fraud involves an amount less than ten lakh rupees or one per cent of the turnover of the company, whichever is lower, and does not involve public interest, any person guilty of such fraud shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to [fifty lakh rupees] or with both.]

Explanation.- For the purposes of this section-

(i) "fraud", in relation to affairs of a company or any body corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss;

(ii) "wrongful gain" means the gain by unlawful means of property to which the person gaining is not legally entitled;

(iii) "wrongful loss" means the loss by unlawful means of property to which the person losing is legally entitled."

2. The investigation was conducted pursuant to the order dated 17.08.2018, passed by Ministry of Corporate Affairs (hereinafter referred as "MCA"), under Section 212 (1)(c) of the Companies Act.

Brief Facts

3. By order dated 17.08.2018, MCA, Government of India, empowered under Section 212 (1)(c) of the Companies Act, had directed SFIO to conduct an investigation into the affairs of Educomp Solutions Limited (hereinafter referred as "ESL"). The said investigation was directed to be conducted within a period of four months.

4. The investigation is stated to have been carried out till December, 2022, which finally culminated into a criminal complaint under Section 439(2), read with Section 436, Section 212, Section 621(1) of the Companies Act, read with Section 193 of the Code of Criminal Procedure, 1973 ("Cr.P.C."), before the Special Judge (Companies Act), alleging commission of offences by the accused persons including the applicant herein under Sections 129, 447, 448 of the Companies Act, under Sections 211, 628, 227/233 of the Companies Act, 1956 and under Sections 420, 120B of the Indian Penal Code, 1860 ("IPC").

5. During the investigation, SFIO exercising power under Section 212(8), arrested the applicant on 14.10.2022.

6. The complaint is filed against 70 accused of which 15 accused are various companies and 55 accused are individuals.

7. As stated above, the investigation was ordered in relation to affairs of ESL. It is mentioned that the company ESL was incorporated on 07.09.1994 with an authorised capital of ₹40

crores and Mr. Shantanu Prakash was its Managing Director, w.e.f. 07.09.1994.

8. During the course of investigation, approval of the MCA was also obtained for investigating other companies such as Educomp Infrastructure and School Management Limited (hereinafter referred as "EISML") and Edusmart Services Private Limited (hereinafter referred as "ESSPL"), both subsidiaries of ESL.

9. The status report has been filed by SFIO and it is alleged in nutshell as under:

> *"3. The investigation established that Shantanu Prakash was required to infuse capital in the company to avail of credit facilities from lender banks and financial institutions. Further, to hold indirectly control of the prime assets of CUIs after Corporate Debt Restructuring ("CDR") proposal, to siphoned off the funds from CUIs, he was assisted by his employees and close associates, through a series of concerted actions, such as bogus capital advances, bogus LCs, property at inflated prices and to infuse the capital, and maintain the required level of debt-equity, using a complex web of companies and financial transactions, siphoned off funds from CUIs starting from the F.Y. 2008-09 onwards.*
>
> *4. Investigation established that Shantanu, Managing Director ESL and Director in EISML and others, in connivance with the KMPs/employees of the company and his close associates siphoned off huge amount of funds to the tune of Rs. 240.76 crores through various paper companies/entities from CUIS through a myriad of companies infused it back into his personal account SP and then infused these funds in the CUIs in the form of equity or promoter warrants directly or through a SPV namely A.P. Eduvision Pvt Ltd. or on his name to satisfy the conditions of agreement dated 19.06.2012 executed with Mt Kellet Group and (lender) and CDR.*
>
> *5. Examination of bank accounts of these paper entities revealed that these companies (divided into 5 groups on the basis of key persons who were controlling the affairs of the company) were used for circular transactions for other*

persons/companies etc. Bank accounts were opened in same bank in order to ease circular fund movement and were generally operated for a limited period of time. The funds received in these entities were layered/rotated through various paper entities controlled by entry operators and were ultimately received from CUIs and transferred to SP account of SP. SP then directly or through A.P. Eduvision transferred the same to ESL and EISML as equity infusion.

6. Investigation also established that Little Millennium Education Pvt Ltd ("LMEPL") (earlier known as Educomp Child Care Pvt Ltd), was one of the assets which were identified to be monetized as per the approved CDR proposal of ESL Shantanu Prakash did not want to lose this asset in the ongoing CDR process, so, he connived with Bindu Rana, the Applicant herein and his close associates and entry-operators of various companies/entities to indirectly hold the control of LMEPL. through MEMPL and also constructed a school at Sector 119, Noida under another company MEF(Millenium Education Fund). The funds siphoned off from companies were layered/rotated through various entities/companies and then to the bank accounts of the Applicant herein. Millenium Education Management Pvt. Ltd. ("MEMPL") and Millenium Education Fund ("MEF"). It was revealed that Rs. 9.25 crores had been received in the bank account of MEMPL from Group-1 companies which was further transferred to acquire LMEPL. Further, it was also revealed that funds of Rs. 17.78 crores had been received from Group I & II companies in the personal bank account of the Applicant, who further transferred the same to MEMPL and MEF to acquire the majority shareholding of IMEP and construct school at Sector 119, Noida under MEF.. Priya Prakash, D/o Shantanu Prakash also transferred Rs. 16.35 crores to the Applicant's account who further transferred the same to MEMPL.

10. In relation to the role of the present applicant, it is alleged that the applicant is closely associated with Shantanu Prakash and Educomp group. She was former Research head of ESL during the period 2004 to 2014. She was also a Director of MEMPL during the period 14.10.2014 to 31.07.2020 and of MEF during the period 01.10.2014 to 01.11.2017.

11. It is alleged that the applicant, despite being aware of the

fact that the financials are not reflecting a true and fair view of the affairs of the company, had signed the financial statements of MEMPL for the financial year 2014-15 to 2018-19 and the financial statements of MEF for the financial year 2014-15 to 2015-16.

12. It is further alleged that she was the authorised signatory in the Bank Account operated by MEMPL in which funds were received from the various companies being operated by Shantanu Prakash.

13. She received funds to the tune of ₹17.78 crores in her personal account and the companies, MEMPL and MEF also received funds to the tune of ₹9.25 crores and ₹2 crores respectively from the companies controlled by Shantanu Prakash.

14. The said funds are claimed to have been transferred for the purpose of siphoning off inasmuch as from the said funds, a major shareholding of another company LMEPL were acquired and the funds were used to construct a school at Sector 119, Noida.

15. It is further claimed that Ms. Priya Prakash, daughter of Shantanu Prakash, also transferred ₹16.35 crores to the applicant's personal account which were, thereafter, transferred to MEMPL.

16. It is, thus, alleged that Shantanu Prakash in connivance with the applicant and other co-accused persons siphoned off

funds from ESL and other companies and those funds were then used to create assets.

17. The complaint has been filed alleging eleven charges against the accused persons. The applicant is alleged to be involved in two of the eleven charges made against the various accused persons which are stated below:

a. **<u>Charge No. 1: Siphoning off funds of ESL, EISML and ESSPL to acquire the shares of Educomp Child Care Pvt. Ltd. (now known as Little Millennium Education Private Limited) and to build the Millennium School at Sector 119, Noida</u>**

i) In the above-mentioned charge, the role of Shantanu Prakash is stated as under:

He was the Managing Director of ESL from 07.09.1994, Director in EISML during the period 02.09.2006 to 15.02.2018 and controller of ESSPL. He had attended the Joint Lender Meetings of CDR. As per CDR proposal of ESL, ECCPL/LMEPL was identified one of the assets to be monetized. He, with the intention of not losing the prime asset and also to indirectly control ECCPL/LMEPL, intentionally incorporated MEMPL through Bindu Rana.

ii) The role of the applicant is mentioned as under:

Bindu Rana was the Director of MEMPL during the period 14.10.2014 to 31.07.2020 and MEF during the period 01.10.2014 to 01.11.2017. She was also director of Educomp Software Limited during the period 27.11.2014 to 22.02.2015. She was also Ex-Research Head of ESL during the period 2004 to 2014.

Bindu Rana had signed the financial statements of MEMPL for the F.Y. 2014-15 to 2018-19 and MEF for the F.Y. 2014-15 to 2015-16, knowing the fact that the financials are not reflecting a true and fair view of the affairs of the company.

Bindu Rana was the authorised signatory of the bank accounts of MEMPL in which funds were received from Group I & II companies and further transferred to ECCPL/MEMPL. She had received funds of Rs. 17.78 crores from Group I & II companies in her personal account and she failed to prove the genuineness of the funds received.

Bindu Rana was well aware of the facts that funds were used by MEMPL to acquire the majority shareholding of ECCPL/LMEPL and to construct the school under the Brand 'The Millennium School' were arranged by Shantanu Prakash.

iii) In all, 15 persons have been stated to be involved in commission of the above mentioned Charge No. 1.

b. The other charge in which the role of the applicant has been alleged was Charge No. 2A and Charge No. 2B, which reads as under:

Charge No. 2A: Commission of fraud by divesting the asset of ESL (share in Educomp Child Care Private Ltd. now known as Little Millennium Education Private Limited) in favour of Millennium Education and Management Pvt. Ltd. punishable under Section 447 of the Companies Act, 2013

Charge No. 2B: Commission of fraud by using the funds of ESL, EISML and ESSPL to acquire "the Millenium School" through Millenium Education Foundation; punishable under Section 447 of the Companies Act, 2013

i) In relation to Charge No. 2A, 12 individuals including the applicant have been alleged to have committed the offence.

ii) In relation to Charge No. 2B, 11 individuals along with the applicant are alleged to have committed the offence.

iii) It is alleged that a primary property, admeasuring 27.10 acres, which was bought by EISML in July, 2008 in Mussoorie, was identified as one of the asset which was made part of the Corporate Debt Restructuring ("CDR"), approved by the banks and was made available for sale (asset monetisation).

iv) It is alleged that the sale proceeds of the said property was to be exclusively used towards repayment of first instalment of the CDR. It is further claimed that since Shantanu Prakash did not want to lose the said asset in the process of CDR, he connived with other co-accused persons including the applicant herein to indirectly acquire the said asset through another company through a complex web of multi-layering transactions and rotation of funds siphoned off from ESL, EISML and ESSPL.

v) The role of the applicant is alleged as under:

Bindu Rana was Director of MEMPL during

the period 14.10.2014 to 31.07.2020 and MEF during the period MEF 01.10.2014 to 01.11.2017. She was also director of Educomp Software Limited during the period 27.11.2014 to 22.02.2015. She was also Ex-Research Head of ESL during the period 2004 to 2014.

Bindu Rana had signed the financial statements of MEMPL for the F.Y. 2014-15 to 2018-19 and MEF for the F.Y. 2014-15 to 2015-16, knowing the fact that the financials are not reflecting a true and fair view of the affairs of the company.

She had received funds of Rs. 16.10 crores from Priya Prakash. The same funds were transferred from her personal account to MEMPL and then to KBESPL to SDPL and then to EISML against the sale consideration of MIS.

She was the authorized signatory in the bank accounts of MEMPL in which funds were received from Priya Prakash, D/o Shantanu Prakash. She had also received funds of Rs 1.25 crores from Group-I companies which were further rotated to MEMPL to ECCPL/LMEPL and then to KBESPL to SDPL for purchase of MIS.

She failed to prove the genuineness of the funds received in her personal account. She is a close associate of Shantanu Prakash and was well aware about the fact that funds were routed through her personal account and MEMPL to indirectly hold the control of MIS by Shantanu Prakash.

18. There are various other charges which have been levelled against various accused persons but not the applicant herein.

19. Learned Senior Counsel for the applicant submits that the applicant has been falsely implicated in the present case. He submits that the applicant has received several national and international awards and is a renowned academic educationalist and author.

20. The applicant has always cooperated with the investigation for the past four years. She joined as and when she was called. He submits that there was no occasion for the respondent authorities to arrest the applicant.

21. He further submits that the applicant has been targeted by the prosecution. The main accused, even as per the prosecution case has not been arrested till date. The respondents have not arrested other accused persons who are stated to be the co-accused in the transactions which are alleged against the applicant.

22. No offence under Section 447 of the Companies Act is made out against the applicant even if taken at the face value. He submits that the applicant, at best, has entered into certain business transactions with the main accused and his companies but the same cannot be termed as having been entered into for the purpose of siphoning off of the money from the companies under investigation. The money was raised by the applicant's company

for the business expansion. The applicant cannot be alleged to be aware of the source of the funds or that she was aware that the funds were allegedly siphoned off.

23. He submits that the respondent is aware of the utilisation of the funds and it cannot be alleged, at this stage, that the funds were siphoned off by the applicant.

24. It is further submitted that the company, ESL is, already before the Hon'ble National Company Law Tribunal and the Resolution Professional appointed in those proceedings did not find any evidence of diversion of funds or fraud.

25. Learned Senior Counsel further relies upon the judgment passed by the Hon'ble Apex Court in the case of ***Satender Kumar Antil v. Central Bureau of Investigation & Anr.; 2022 SCC Online SC 825*** and other judgments to contend that in a case pertaining to a women, the Court is expected to show some sensitivity.

26. Hon'ble Apex Court has time and again emphasized that the gravity of the offence cannot be the sole consideration for denial of bail. The purpose of prison is not for punishing the accused or to send any message to the society. The investigation, in the present case is complete which has led to filing of the complaint (charge sheet).

27. He submits that the complaint which is equivalent to chargesheet has already been filed and the applicant is not

required to be further detained in custody.

28. The learned standing counsel for SFIO has vehemently opposed the grant of bail to the present applicant. He submits that the investigation has unearthed a big scam running into thousands of crores being committed by Shantanu Prakash, the Managing Director of ESL. The said Shantanu Prakash, in connivance with the other co-accused persons including the applicant, has siphoned off huge amount of funds to the tune of ₹240.76 crores through various paper companies and has infused it back into his personal accounts. He has taken the Court through the contents of the complaint in order establish the role of the applicant in commission of the offence.

29. He further submits that the applicant had failed to cooperate with the investigation and remained evasive on several occasions. The offence alleged is a grave economic offence which inflicts severe injuries on both health and wealth of the nation and have the tendency to jeopardise the economy of the country.

30. He further submits that the limitation in grant of bail in terms of Section 212(6) of the Companies Act is in addition to the limitations under the Cr.P.C.

31. He relies upon the judgment passed by this Court in the case of ***Shivani Rajiv Saxena v. Directorate of Enforcement: 2017 SCC Online DEL 10452*** to contend that merely because the applicant is a woman does not entitle her for bail and the nature,

gravity and seriousness of the offence have also to be considered.

32. He further relies upon the judgment passed by the Hon'ble Apex Court in the case ***State of Gujarat v. Mohanlal Jitamalji Porwal : (1987) 2 SCC 364, Y.S. Jagan Mohan Reddy v. CBI : (2013) 7 SCC 439*** and ***Rohit Tandon v. Directorate of Enforcement : (2018) 11 SCC 46*** in order to buttress the argument that economic offences constitute a class apart and need to be visited with a different approach in a matter of bail.

33. I have considered the arguments advanced by the parties.

34. After the arrest of the applicant on 14.10.2022, the SFIO has already filed their compliant on 12.12.2022. It is pertinent to note that the provisions of Section 167(2) have been made applicable in relation to arrests made under the Companies Act.

35. In terms thereof, if the chargesheet (complaint) is not presented before the expiry of 60 days from the date of arrest, the accused is entitled for the grant of default bail.

36. It is not in dispute that economic offences have deep rooted conspiracies involving huge loss of public funds and need to be viewed seriously. They have a tendency of affecting the economy of the country as a whole and cause serious consequences to the community at large.

37. Keeping these factors in mind, the legislature has in fact introduced limitations on grant of bail in relation to offences

covered under Section 447 of the Companies Act. Section 212(6) of the Companies Act states as under:

> **"212. Investigation into affairs of Company by Serious Fraud Investigation Office. –**
>
> *xxxx* *xxxx* *xxxx*
>
> (6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), [1][offence covered under section 447] of this Act shall be cognizable and no person accused of any offence under those sections shall be released on bail or on his own bond unless—
>
> (i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and
>
> (ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:
>
> Provided that a person, who, is under the age of sixteen years or is a woman or is sick or infirm, may be released on bail, if the Special Court so directs:
>
> *xxxx* *xxxx* *xxxx*"

38. It is apparent that no person accused of an offence under Section 447 shall be released on bail unless the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

39. The legislature, however, in its own wisdom decided to exempt the person who is under the age of 16 or is a woman or is sick or infirm from the limitations prescribed in Section 212(6).

40. It, however, does not mean that the woman who is found to have committed the offence should necessarily be released on bail and the basic jurisprudence to bail still have to be applied.

41. The economic offences are considered under the category of grave offences and is a factor which has to be kept in mind in addition to the triple test which is normally applied while considering the application for grant of bail.

42. It is, however, equally true that only because the allegations are one of the grave economic offences, it is not a rule that the bail has to be denied in every case. Every application has to be considered on its own merits and considering the factors which are relevant for the said case. The basic test, as reiterated by the Hon'ble Apex Court from time to time, remains the same being:

(i) the chances of tampering with the documents and evidence,

(ii) the chances of influencing the witness, and

(iii) the flight risk.

43. It is not in dispute that the investigation in the present case is already complete, which has culminated into a criminal complaint filed before the concerned Special Court.

44. There may be certain aspects of investigation which are stated to be pending further investigation but it is not denied that the complaint has already been filed and is pending consideration for the purpose of taking cognizance before the learned Special Judge.

45. The fact is that the complaint has been filed by the SFIO

without feeling the need of any custody of the 53 out of 55 accused persons. The main accused even as per the SFIO has not been arrested, being protected by the order passed by this Court in Writ Petition (Criminal) No. 1242 of 2022. The said writ petition was filed by accused namely 'Vinod Kumar Dandona' and others including the main accused 'Shantanu Prakash' seeking quashing of the order dated 17.08.2018 passed by the MCA under Section 212(1)(c) of the Companies Act, which led to the start of investigation into the affairs of ESL.

46. The coordinate bench of this court, considering the facts of the case, by its order dated 26.05.2022, had directed SFIO not to take any coercive steps against the petitioners therein, which includes the main accused 'Shantanu Prakash'.

47. From the perusal of the complaint, it is apparent that even in relation to the charges which are alleged against the present applicant, there are various other accused persons who have been named as co-accused. The role assigned to them at this stage is no different than the Applicant. However, surprisingly the SFIO did not feel any need or ground to arrest those co-accused persons and proceeded to file the complaint praying the learned Special Court to take cognizance of the offences.

48. The investigation, even though is stated to have started in the year 2018, the applicant was called on few occasions in the year 2020, then in February 2021 and thereafter information was sought from the applicant in July and September, 2022 and she was ultimately arrested on 14.10.2022.

49. It is also argued by the SFIO that the applicant was evasive in her interrogation. The same, in my opinion, cannot be an allegation of such nature so as to disentitle an accused from grant of bail. Even though allegation of being evasive has been levelled, the fact still remains that the investigation in relation to the applicant is stated to be complete, which led to filing of the complaint before the Special Judge. It is not the case of SFIO that an incomplete complaint was filed for the purpose of denying Applicant the benefit of default Bail under Section 167(2) of CrPC.

50. The learned senior counsel has made detailed arguments in order to show that the transactions alleged against the applicant were commercial in nature.

51. It was submitted that the Applicant was coerced, threatened and browbeaten into making incriminating statements during her SFIO custody, contrary to the facts and her previous statements. SFIO coerced the Applicant to do so by threatening to drag her young daughter, who was an early MEMPL director, into the investigation. It is stated that the such statements were withdrawn subsequently by filing appropriate application before the Special Judge.

52. It is submitted that the Applicant has during the course of investigation explained all transactions undertaken by her and the aforesaid companies. Applicant was never involved in the financial affairs of ESL and was never an authorised signatory of

the company and has not signed any balance sheet of ESL during her tenure. All transactions were undertaken through proper banking channels and as per lawful commercial practices.

53. It was further submitted that the investigations started pursuant to corporate rivalry. Raffles Group filed fraudulent complaints with investigative agencies. The allegations levelled in the present case have already been investigated by Economic Offences Wing, Delhi Police ("**EOW**") in FIR No. 222/2019, registered against the ESL Group on the behest of Raffles Group. In the aforesaid case, EOW has concluded that the documents submitted by Raffles Group were forged and fraudulent.

54. It was also stated that the Loans totalling INR 18.10 Crores taken by the Applicant from daughter of Shantanu Prakash has been repaid to the extent of INR 10.15 Crores and it was disclosed to all relevant authorities including SFIO.

55. All these aspects and the veracity of the allegations in my opinion would be considered during the course of trial and are not required to be commented upon at this stage. At this stage the Applicant does not appear to be the beneficiary of the alleged fraud. The allegation is that the Applicant helped in siphoning of some part of the amount from the companies under investigation.

56. Nothing has been pointed out to show that the arrest and further custody of the applicant would substantiate the process of investigation more so when the main accused person and other co accused having similar and in some cases graver role have not

been arrested and the applicant has already joined the investigation.

57. It is also not alleged that the applicant has been found to be tampering with the evidence. The evidence relied upon has already been made part of the complaint.

58. From the very nature of investigation and the complaint filed by the SFIO, the evidence appears to be documentary in nature which is already in custody of SFIO.

59. The SFIO also has not been able to point out the need for continuing the custody of the applicant. Even though they have stated in cursory manner in the Status Report that the applicant is a flight risk, the same, however, can be taken care of by putting appropriate conditions.

60. The applicant is stated to be a 58 year old lady having no criminal antecedents. It is not denied that she lives with her family comprising of unmarried daughter, one son and a husband who retired from a government job.

61. The consequences of pre-trial detention are grave and the burden of such detention also causes severe effect on the other innocent members of the family, especially when it relates to a woman being in custody.

62. The very fact that the SFIO did not feel the need to keep 53 out of 55 accused persons in custody and did not feel that their

custody would be relevant in order to complete investigation, shows that it does not apprehend any tampering with the evidence or influencing of the witnesses. From the perusal of the complaint the role of Applicant does not appear to be graver than other co-accused persons. In fact the same has not even been contended by SFIO during the course of arguments.

63. As reiterated by the Hon'ble Apex Court from time to time, the object of bail is neither punitive nor preventive and deprivation of liberty must be considered as a punishment.

64. Considering the aforesaid facts and circumstances in mind, I am persuaded to admit the applicant on regular bail pending the trial in the Criminal Complaint titled SFIO Vs Educomp Solutions Limited & others. The applicant is, therefore, directed to be released on bail on furnishing a personal bond for a sum of ₹5 lakh with one surety of the like amount to the satisfaction of the Special Judge / Duty Magistrate on the following conditions:

(i) The applicant shall join and cooperate with any further investigation as and when directed by the IO.

(ii) The applicant shall not take adjournment and attend the Trial Court proceedings on every date.

(iii) The applicant shall not leave the country without the permission of the learned Special Court.

(iv) The applicant shall surrender her passport to the learned Special Court.

(v) The applicant shall not contact the witnesses in any manner.

65. The applicant during the period that she is on bail shall not commit any offence whatsoever and in the event of there being any FIR/ DD Entry/Complaint lodged against the applicant, it would be open to the State to seek cancellation of bail, which application, if any, would be dealt with on its own merits.

66. The application, is accordingly, allowed in the aforementioned terms.

67. It is, however, made clear that any observation made in the present order are only for the purpose of deciding the present application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

AMIT MAHAJAN, J

JANUARY 20, 2023
"SS" / KDK