IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1045 OF 2023

Sunita Tanajirao Salunkhe .... Applicant
Versus
The State of Maharashtra .... Respondent

Mr. Ankit R. Takle, Advocate a/w. Tarsem Singh, for the Applicant.
Ms. Pallavi N. Dabholkar, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 02nd JANUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.48/2022 registered at Chitalsar Police Station, Thane on 23.2.2022 under Sections 406, 409, 420 read with 34 of IPC and under section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 [for short, “MPID Act”].

2. The FIR is lodged by one Samir Patil. He has stated that the Applicant’s son Tushar was in the business of

trading in the Share Market. He used to take money in his own account and used to utilize that money for trading and by that he used to give returns to the investors. The informant approached Tushar. He was staying with the Applicant and the Applicant's daughter Tejal. The FIR mentions that the informant, his parents and sister invested Res.7,30,000/-with M/s. Suntan Finserv LLP and in the private account of Tushar maintained with YES Bank. After few days when the informant demanded his returns, Tushar avoided him. The informant was told by one Tanveer that Tushar's bank accounts were freezed and, therefore, there was delay in making the payments. The informant was convinced that he had lost his amount. He came to know that there were 36 other investors who have similarly lost their amounts. The allegations against the Applicant are that someof the investments were deposited in the joint account held by Tushar and the present Applicant with YES Bank. Around Rs.22 Lakhs were deposited in that particular account. In all, the total misappropriation was to the tune of

Rs.2,56,37,423/-. On this basis, the FIR was lodged. The investigation was carried out. Tushar was arrested and he is still in custody. The charge-sheet is filed. The charge-sheet mentions that the total misappropriation was to the tune of Rs.3,88,44,470/-. The main allegations in the charge-sheet are against Tushar. The Applicant is also named as one of the accused in the charge-sheet.

3. Learned counsel for the Applicant submitted that the Applicant had absolutely no role to play in the entire transactions. Even the first informant has not stated that the Applicant had made any representation to him. She is arraigned as an accused only because she was holding a joint account with her son Tushar, in which Rs.22 Lakhs were deposited as mentioned in the FIR. That does not mean that she has taken any active part in the transaction. He submitted that that the Applicant was surviving on the pension of her deceased husband. Even she is not getting the full pension because of the present case. She is not a Partner of the aforementioned M/s. Suntan Finserv LLP. There is no

statement of any other victims naming the present Applicant.

4. Learned counsel further submitted that the Applicant has filed an affidavit mentioning that she was giving her consent for seizure and attachment of the land situated at village Valwa, District Sangli, admeasuring 71 Gunthas. He submitted that there is nothing in the entire charge-sheet to show that the Applicant has personally utilized the amount deposited in the joint account.

5. Learned APP opposed this application, but, on instructions she fairly submitted that there is no other victim apart from the first informant who has named the present Applicant. The only allegations against the present Applicant are, as mentioned in the FIR, that the money was deposited in the joint account with her son Tushar. She submitted that the investigation revealed that the total amount deposited in the joint account was Rs.25,67,000/-. Besides that there is no allegation against her.

6. I have considered these submissions. For

attracting the provisions of the MPID Act against the present Applicant there has to be some role attributed to her. Admittedly, the Applicant is not a Partner or a Director of the aforementioned financial establishment. She has not accepted any money individually from any investor. She has not made representation to any of the investors. The only allegation against the Applicant is that the amount of Rs.25,67,000/-, which was accepted by her son Tushar, was deposited in the joint account. Merely on that basis, it cannot be inferred that the Applicant has played any active role in inducing the investors to deposit in various schemes floated by her son Tushar.

7. It is needless to add that the prosecuting agency has all the powers under the MPID Act for attachment of the property involved in this offence. Therefore, considering all these factors, custodial interrogation of the Applicant is not necessary. She is a lady and has not played any active role in the entire transaction. Hence, the following order :

ORDER

(i) In the event of her arrest in connection with C.R.No.48/2022 registered at Chitalsar Police Station, Thane, the Applicant is directed to be released on bail on her furnishing a PR bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two sureties in the like amount.

(ii) The Applicant shall cooperate with the investigation.

(iii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

PRADIPKUMAR PRAKASHRAO DESHMANE

Digitally signed by PRADIPKUMAR PRAKASHRAO DESHMANE Date: 2024.01.04 11:11:43 +0530