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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**
**BAIL APPLICATION NO. 277 OF 2024**

Ashwini Nilesh Joshi … Applicant
vs.
The State of Maharashtra … Respondent

Mr. A.P. Mundargi, Senior Advocate a/w. Pravada Raut i/b. Mr. Shikare, for Applicant.
Mr. A.R Metkari, APP for Respondent-State.
Ms. Anita E. Dugaonkar, PSI, Warje Malwadi Police Station, Pune City, present.

**CORAM : GAURI GODSE, J.**
**DATED : 12th JUNE 2024**

**P.C. :-**

1. This application is filed by the accused no. 2 for grant of regular bail in connection with CR No. 168 of 2023 registered with Warje-Malwadi Police Station, Pune for the offences punishable under Sections 420, 406 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'**).

2. The applicant had applied for regular bail before the Additional Sessions Judge, Pune. However, her application is

rejected on 18th October 2023. Hence, the present application seeking regular bail.

3. Learned senior counsel appearing for the applicant submitted that the applicant was working as a teacher and was not involved in the business of her husband. The allegation with regard to the fraud is against the applicant's husband who was running company by the name Real Value Enterprises. The allegation is that the applicant's husband has accepted the deposits and failed to return the amounts as promised. The learned senior counsel further submitted that a perusal of the chargesheet indicates that statements of all the 32 investors have been recorded. He pointed out the statements of the witnesses and submitted that the allegations of most of the witnesses are against the applicant's husband. He submits that though some of the witnesses have made allegation against the applicant, the nature of allegation is that the couple was involved in influencing the investors to part with a huge amount. He submits that none of the investors were returned with their amount, hence, their allegations against the applicant. He further submitted that as per the investigation a total amount of Rs. 86,75,000/- is shown to have been defrauded amount found in the joint account out of which an amount of Rs. 13,03,500/- is shown to have been transferred

from the joint account of the applicant and her husband to her personal account. He submits that even the case of the prosecution is that the alleged defrauded amount was found in the joint account.

4. The learned senior counsel submits that the applicant was working as a teacher and the allegation against her is mainly based on the transfer of the amount from joint account to her personal account account. He further submits that the applicant had surrendered on 23rd May 2023 and is in custody since then. He submits that the applicant's minor child of around 11 years is required to survive at the mercy of the relatives. He therefore submits that considering the nature of allegations against the applicant and the statements of the witnesses recorded which mainly contain the allegations against the applicant's husband, she be released on regular bail by imposing necessary conditions. He submits that the Sessions Court has rejected the application mainly on the ground that the amount received from the investors is not yet recovered. Learned senior counsel for the applicant thus submits that the same is no ground to continue the applicant in custody. Since the investigation is complete and the role alleged against the applicant is not such that she should be continued in the custody.

5. Learned APP opposes the application and submits that a

huge amount of investors is defrauded. He submits that the entire amount was deposited in the joint account out of which substantial amount was transferred to the personal account of the applicant. Statements of the witnesses indicate that the applicant was actively involved in inducing the investors to invest in the applicant's husband's company. He submits that since the defrauded amount is yet to be recovered it cannot be said that the applicant is innocent and hence she should not be released on bail.

6. I have considered the submissions made by the learned senior counsel for the applicant and the learned APP. I have perused the papers. The statement of the witnesses indicate that some of the witnesses have made allegations that the applicant had induced the investors in the company of the applicant's husband. The total amount found to have been defrauded is huge amount of Rs. 86,75,000/-. It appears that such amount was deposited in the joint account of the applicant and her husband out of which a certain amount was transferred to the applicant's personal account. A perusal of the statements of the witnesses indicate that the role alleged against the applicant is of influencing the investors to invest the amount in the applicant's husband company. Thus, the allegations against the applicant is at the most

of inducing the investors to part with the amount to invest in her husband's company. Except for the amount from the joint account being transferred to the applicant's personal account and the allegations that she was also involved in inducing the investors to invest the amount in her husband's company, no other serious allegations are made against the applicant. It is not in dispute that the applicant was working as a teacher in a private school and that she has a minor child to look after.

7. The investigation is already complete. There are no other allegations against the applicant and no antecedents are pointed out against the applicant. Having regard to the nature of allegations made against the applicant, she cannot continue to be detained for an indefinite period. Applicant is therefore entitled to be released on bail on following terms and conditions.

8. For the aforesaid reasons, the application is allowed by passing following order:

I) Applicant shall be released on regular bail in connection with Special MPID Case No. 630 of 2023 arising out of CR No. 168 of 2023, Warje-Malwadi Police Station, Pune for the offences punishable under Sections 420 and 406 read with Section 34 of the Indian Penal Code and Section 3 of the

MPID Act, on furnishing P.R. Bond of Rs. 50,000/- with one or two sureties in the like amount.

II) The applicant shall not directly or indirectly make any inducement or influence any person who is acquainted with the facts of the case and shall not tamper with the evidence.

III) The applicant shall not leave the jurisdiction of the State of Maharashtra without prior permission of the concerned Trial Court.

IV) The applicant shall regularly attend each date of hearing of the Special MPID Case No. 630 of 2023.

V) The applicant shall attend the concerned police station and report to the Investigating Officer as and when called upon.

VI) The applicant shall keep the Investigation Officer informed of her current address and mobile contact number and/or change of mobile details, if any, from time to time;

VII) The applicant shall surrender her passport if any, with the Investigating Officer.

**(GAURI GODSE, J.)**