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

CRIMINAL APPLICATION (BA) NO. 875 OF 2024

Sau. Vandana w/o Pradeep Khangar
Vs.
State of Maharashtra, Through Police Station Officer, Police Station, Hingna, District Nagpur

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Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

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Mr. Y. D. Shukla, Counsel for the applicant.
Mr. S. V. Narale, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 25/10/2024

1. The applicant came to be arrested on 24.07.2024 in connection with Crime No.315/2024, registered with Police Station, Hingna, District Nagpur for the offences punishable under Sections 406, 409, 419, 420, 465, 468 and 471 read with Section 34 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by Smt. Nilini Purushottam Tambulkar on an allegation that she got acquaintance with the present applicant and husband of the present applicant. In the year 2001, the present applicant was appointed as a Recurring Deposit (R.D.) Agent by the Department of Post. She used to collect the money from the various persons to deposit the same in the Post Office in R.D. The transaction of the complainant's R.D. was looked after by her husband,

but after the death of her husband, the informant has received some amount and the informant decided to invest the same. At the relevant time, she was informed that she will receive good interest if she invested the money in the Post and therefore, she consented for the same. The applicant was demanding the cash amount from her to invest in F.D., however, the complainant asked her that she will transfer the same online, and accordingly, the amount was transferred to the account of the husband of the present applicant. She has also the UTR number of the said transaction. Thereafter, F.D. card was issued in her name. She has also obtained the R.D. of Rs.2,000/- per month from the husband of the present applicant. Subsequently, she has not receive the interest on the said R.D. amount and therefore, she approached to the Post Office and she came to know that she is duped, therefore, she approached to the Police Station and lodged the report. On the basis of the said report, police have registered the crime against the present applicant.

3. During the investigation, in all 72 persons came forward with the same complaint that they were duped by obtaining the amount and not depositing the same in the R.D. On the basis of the same, the crime was registered against the present applicant.

4. Learned Counsel for the applicant submitted that as far as the applicant is concerned, she is neither agent of the Post Office, nor she has any concern with the said transaction. It was her husband who was collecting the money and was depositing the same in the Post. The applicant is a housewife and merely because she is the wife of the co-accused, she is implicated in the alleged offence. Now, the applicant is behind bar since 24.07.2024, her further incarceration is not required. In view of that she be released on bail.

5. In support of his contention, he placed reliance on **Faizi s/o Moin Sheikh and another Vs. State of Maharashtra** reported in **2022 ALL MR (Cri.) 1707** wherein this Court has considered the bail application of the applicant therein on the ground that though she was present the witnesses have attributed the prominent role to the co-accused and being she is a woman.

6. Per contra, learned APP strongly opposed the said application and submitted that now the investigation is transferred to the Economic Offence Wing and still investigation is going on. Several persons are coming forward with the complaint that they were also duped by the present applicant by obtaining the money. The applicant was appointed as an R.D. Agent. The statement and the documents to that effect are collected by the investigating agency.

Thus, there is a *prima facie* material against the present applicant, therefore, her custodial interrogation will be required in future also considering several persons are coming forward, in view of that the application deserves to be rejected.

7. After hearing the learned Counsel for the applicant and learned APP for the State, perused the investigating papers. Besides the recitals of the FIR, wherein the material allegation is levelled against the present applicant as well as her husband. The name of the other investors is also mentioned in the FIR which are 71 in numbers. It is submitted by the learned APP that now the said numbers are increased. During the investigation, the Investigating Officer has also visited the house of the present applicant and house search panchnama was carried out. During the house search panchnama, some documents, F.D. Form, the Account Opening Form and withdrawal slips as well as deposit slips are seized from her house. The seizure panchnama and seizure memo further shows that the handwriting specimen entries regarding the amount received are also found in a diary and 12 diaries and 8 notebooks were seized by the investigating agency. There are statements of the other investors also who have made an allegation of the similar type against the present applicant. Thus, it is apparent from the entire investigation papers that nature of the allegation shows the involvement of the present

applicant in an economic offence. The applicant has collected the money from various investors initially the investors have received the interest amount, but subsequently, the amounts are not deposited. The statement of the Officer of the Postal Department namely, Deepak Laxman Nitnaware also shows that the applicant was appointed as an R.D. Agent, initially she was depositing the amount regularly, but thereafter, she stopped depositing the amount and several investors approached to them for the inquiry and subsequently, the crime was registered against the present applicant. On the request of the police, he has also freeze the Post Account of the present applicant. Thus, considering the investigation carried out by the investigating agency it reveals that a *prima facie* case is made out against the present applicant. As far as the contention of the learned Counsel for the applicant is concerned that she is suffering from breast Cancer, but the certificate which is placed on record shows that she was treated for the same and as far as today's condition is concerned, there is no material on record to show that now her condition was deteriorating.

8. In the present case, considering the nature of the crime and the amount involved are of investors who have invested their hard-earned money. The Hon'ble Apex Court while dealing with the offence involving the economic offence of huge magnitude in the case of **Y. S. Jagan Mohan Reddy Vs. Central**

Bureau of Investigation reported in **(2013) 7 SCC 439** laid down following parameters:

> *(i) Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.*
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> *(ii) While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.*

9. The Hon'ble Apex Court in the case of **State of Gujarat Vs. Mohanlal Jitamalji Porwal and another** reported in **(1987) 2 SCC 364** wherein also it is held that:

> *"...... The entire Community is aggrieved if the economic offenders who ruin the economy of the State are not brought to books. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design*

with an eye on personal profit regardless of the consequence to the Community. A disregard for the interest of the Community can be manifested only at the cost of forfeiting the trust and faith of the Community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the National Economy and National Interest. ….”

10. Considering the role of the present applicant in the crime having involved an enormous and huge amount which was invested by the investors who are from the poor strata of the society and they have invested their hard-earned money. Moreover, the investigation by the Economic Offence Wing is in progress and further custodial interrogation would be required. In the background of the accusation and its gravity, the application of the present applicant deserves to be rejected. Accordingly, I proceed to pass following order:

The application is rejected.

(URMILA JOSHI-PHALKE, J.)

Sarkate