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

CRIMINAL APPLICATION (ABA) NO.687/2023
Meera Prakash Phadnis
..vs..
The State of Mah., thr.Station House Officer, PS Awadhootwadi, Yavatmal, Taluka and District Yavatmal

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

Shri Anil S.Mardikar, Senior Counsel assisted by Shri V.D.Darne, Advocate for the Applicant.
Shri A.D.Tote, Counsel to assist the Prosecution.
Shri V.A.Thakare, Additional Public Prosecutor for the State.

CORAM : URMILA JOSHI-PHALKE, J.
CLOSED ON : 27/02/2024
PRONOUNCED ON : 01/03/2024

1. By this application, being moved under Section 438 of the Code of Criminal Procedure, the applicant seeks her pre-arrest bail in connection with Crime No.988/2023 registered with the non-applicant/police station for offences punishable under Sections 170, 406, 419, 420, 465, and 468 read with 34 of the India Penal Code and read with 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

2. The crime is registered against the applicant on the basis of report lodged by Sachin Anil Dhakate (complainant) at Awadhootwadi Police

Station, Yavatmal. According to the complainant, he is acquainted by the applicant who represented him that she has been selected as Member of Advisory Committee, Department of Tourism, Government of India. Co-accused Aniruddha Anandkumar Hoshing is also officer and posted in the same department and both were constantly in touch with each other. The applicant informed the complainant that the department has various Schemes wherein if money is invested, he may get high returns. One Chetan Bhise contacted and conveyed him that tender for bed sheets, blankets, and washing would be flouted for which amounts Rs.30.00 lacs as security deposit and Rs.1.00 lac as caution money require to be deposited. It was represented that there would be an agreement to that effect and investors would receive around Rs.6.00 to Rs.7.00 lacs per month. The said agreement would be executed in presence of the Honourable President and the Honourable Prime Minister of India and other Honourable Ministers of the Tourism Ministry. Believing words of the applicant, he and Chetan Bhise invested amounts Rs.19.00 lacs and Rs.1.00 lac respectively.

3. On 18.11.2022, the applicant and other co-

accused hold a meeting for investors. In the said meeting, invitation cards were distributed and it was represented that events would be organized in presence of the Honourable Chief Minister and other Honourable Ministers. Thus, as per allegations, the applicant impersonated herself as Member of Advisory Committee, Department of Tourism, Government of India and prepared forged documents and obtained amounts money which are not returned back and duped the complainant and the other investors. On the basis of the said report, the police registered the crime against the applicant.

4. Learned Senior Counsel for the applicant submitted that in fact the applicant is investor and victim at the hands of the co-accused. Son of the applicant invested amount which he has not received back. As regards preparation of invitation cards showing names the Honourable President and the Honourable Prime Minister of India, the investigating agency, while filing chargesheet, alleged that those cards are prepared by the co-accused. Learned Senior Counsel inviting my attention towards statement of accounts submitted that amount of the applicant itself is invested on

an assurance by the co-accused. He also filed an additional affidavit and submitted that WhatsApp Chats, on which the prosecution relied upon, are not by the applicant. Company viz. “Mahee Rage Industries Private Limited” is involved in illegal work and amount of misappropriation is deposited in the bank account of the said company, but the said company was formed by the applicant, her daughter, and one Mahesh Thakre. It was just formed and no transaction took place. The balance amount of the said company is Rs.7558/- as per banking rules. Thus, there is absolutely no material to connect the applicant with the alleged offence.

5. *Per contra*, learned Additional Public Prosecutor for the State strongly opposed the application on ground that statements of witnesses recorded during investigation clearly show involvement of the applicant in the alleged offence. Co-accused Aniruddha posed himself as official of the Department of Tourism and the applicant posed herself as Member of Advisory Committee, Department of Tourism, Government of India and collected amounts. During investigation, account details of daughter of the applicant were obtained in which

amount Rs.21.00 lacs was transferred. It is further revealed that the applicant has accepted gold ornaments and diamonds from the co-accused. Various brochures and symbols of the Government of India were seized which show that the applicant by posing herself as Member of Advisory Committee, Department of Tourism, Government of India obtained amounts by showing bogus offers and thereby duped various investors. Her custodial interrogation is required and, therefore, the application deserves to be rejected.

6. Having heard learned Senior Counsel for the applicant; learned Additional Public Prosecutor for the State, and perused investigating papers, it reveals that allegations against the applicant are that she posed herself as Member of Advisory Committee, Department of Tourism, Government of India and represented the complainant that tender would flouted for which amount Rs.30.00 lacs as security deposit requires to be deposited. Accordingly, the complainant deposited the amount and, thereafter, the applicant and co-accused forged one invitation card showing names of the Honourable President and the Honourable Prime Minister of India

and other Honourable Ministers of the Tourism Ministry and assured investors that if amounts are invested, they would get returns from the said amounts. The investigating officer seized various brochures and symbols of the Government of India. During investigation, various statements of witnesses are recorded which show that the applicant was in contact with various investors and posed herself as Member of Advisory Committee, Department of Tourism, Government of India and obtained amounts from investors. Statement of one Avinash Sadashiv Pande also shows that the applicant has induced him to invest amount and also represented him that various schemes are flouted by the Tourism Ministry and the said Schemes would be inaugurated by the Honourable President and the Honourable Prime Minister of India and there would be presence of various bureaucrats in the said function. She had also shown invitation cards wherein names of the Honourable President and the Honourable Prime Minister of India were mentioned. Not only this, statement of witnesses show that the applicant gifted gold ornaments to various investors. The said gift boxes were containing gold coins. Statement of Manik Avinash Pande shows that she received a phone call from the applicant and her counsel asking her not to appear before the Economic Offence Wing and gave her statement and they would settle her account subsequently. During investigation, WhatsApp Chat of the applicant with the co-accused is also seized from which it reveals that the applicant induced various investors to invest amounts. The prosecution also placed on record some photographs showing her association with the co-accused. By committing the offence, the applicant gained economic benefits and, therefore, her custodial interrogation is required. Another crimes are also registered against the applicant.

7. The application is also opposed by learned counsel for the complainant by submitting that the applicant is involved in a huge fraud. From investigation papers, it reveals that the applicant not only induced various investors to invest amounts but also by misusing names of the Honourable President and the Honourable Prime Minister of India represented various Schemes are flouted by the Tourism Department and obtained amounts from investors. Statements of witnesses further show that investors have deposited amounts in the account

.....8/-

of the applicant and her daughter. The applicant also received economic gains by obtaining gold ornaments. Thus, there is a *prima facie* material against the applicant to show her involvement in the alleged offence.

8. In the case in hand, in a given set of facts, it discloses that the applicant has not only induced investors to invest amounts but also her dishonesty can be gathered from various statements of witnesses which show that the applicant obtained huge amounts by various investors by posing herself as Member of Advisory Committee, Department of Tourism, Government of India and on a pretext of flouting of Schemes by the Tourism Department and preparing forged invitation cards showing names of the Honourable President and the Honourable Prime Minister of India induced various investors to invest amounts and collected amounts.

9. Though object of Section 438 of the Code of Criminal Procedure is to safeguard personal liberty of an individual, balance is required to be established between two rights i.e. safeguarding personal liberty of an individual and societal interests and that grant of anticipatory bail

particularly in economic offences hampers effective investigation. Power to grant anticipatory bail being an extra ordinary power has to be exercised sparingly, more so in cases of economic offence. Such bail must be granted only in exceptional cases after application of mind in relation to nature and gravity of accusations, possibility of applicant fleeing justice, and factors. Powers are to be evoked where cases alleged to be frivolous and groundless.

10. The applicant is involved in economic offence. The entire community is aggrieved if economic offenders, who disturb the economy of the State, are not brought to book.

11. The Honourable Apex Court, while dealing with offence, involving conspiracy to commit economic offences of huge magnitude, in the case of **Y.S.Jagan Mohan Reddy vs. CBI, 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 offence 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, and
>
> 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 interest of the public/State and other similar considerations.

12. The Honourable Apex Court, in the case of **State of Gujarat vs. Mohan Lal Jitamalji Porwal, reported in (1987)2 SCC 364** held as follows:

> “5. ….The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. 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…..”

13. Thus, in view of observations of the Honourable Apex Court in cases *supra*, economic

offences constitute a class apart and need to be visited with different approached in the matter of bail. The economic offences having de-protected conspiracies and involved a huge loss of public funds need to be viewed seriously. While considering applications for anticipatory bail, one has to be kept in mind nature of accusations and nature of evidence in support thereof, severity of punishment, character of accused, circumstances in which the offence is committed, and larger interests of public.

14. In the present case, in a very systematic manner, the applicant and the co-accused obtained amounts from various investors by posing themselves as representatives of the Department of Tourism, Government of India and also by using names of the Honourable President and the Honourable Prime Minister of India misappropriated amounts and obtained economic gains. This indicates a systematic plan of the applicant along with the co-accused with an intention to defraud the complainant and other investors and, therefore, this is not a fit case wherein discretion can be used in favour of the applicant and, therefore, protection under Section

438 of the Code of Criminal Procedure cannot be granted.

15. For all above said reasons, the application deserves to be rejected and the same is **rejected**.

The application stands **disposed** of.

(**URMILA JOSHI-PHALKE, J.**)

!! BrWankhede !!