2024:BHC-NAG:5810

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

CRIMINAL APPLICATION (ABA) NO. 350 OF 2024

(Mrs.Lalita w/o Shashank Virulkar vs. The State of Maharashtra)

Office Notes, Office Memorandum of Coram, appearances, Court's orders of directions and Registrar's orders.	Court's or Judge's order

Mr. Anup S. Dhore, Advocate for the applicant.
Mr. Harshal Futane, APP for State.

CORAM : URMILA JOSHI-PHALKE J.

DATE : MAY 24, 2024

Apprehending her arrest at the hands of police in connection with Crime No.70/2024 registered with Police Station, Sonegaon, Nagpur City under Sections 406, 420 read with 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors Act, the applicant approached this Court for grant of anticipatory bail.

2) The accusation against the present applicant is on the basis of report lodged by Tushar Rajendra Vaidya, who alleged that the husband of the applicant had influenced him from 14/11/2022 to invest money with them with assurance of refund of said money with interest @12 to 15%. It is further alleged that since then he had deposited an amount of Rs.11,46,000/- with the husband of the applicant and out of the said amount the husband of the applicant has refunded only an amount of Rs.3,61,750/-, but thereafter avoided to make the payment of investment amount along with interest as agreed.

3) It is further alleged that several investors have invested the amount from the inducement of the husband of the applicant and present applicant was also inducing the investors to invest money on the promise of refund of the invested amount

with interest. On the basis of the said report, the police have registered crime against the present applicant as well as the other co-accused.

4) Learned counsel for the applicant submitted that as far as the role attributed to the present applicant is concerned, she has been falsely implicated only because she is the wife of co-accused. From the recitals of the FIR it reveals that it was the co-accused who is her husband obtain the amount from the various investors, he has already arrested. Regarding the depositing of the amount in the account of the present applicant is concerned, he submitted that the amount of Rs.2,00,000/- was deposited in the account of the present applicant by one Raju Lilhare, which was immediately transferred in the account of her husband. Thus, she is not beneficiary of the said amount. She is having small child of aged about 12 years old and there is nobody to look after him. As far as the custodial interrogation is concerned, she is ready to abide by all the conditions imposed by this Court and will cooperate with the Investigating Agency.

5) Learned counsel for the applicant also placed reliance in the case of **Satender Kumar Antil vs. Central Bureau of Investigation and another reported in (2022) 10 SCC 51**.

6) Learned APP strongly opposed the said application on the ground that during the investigation the Investigating Officer has recorded various statements of the witnesses also collected the account statements of the present applicant and other co-accused. From the statement of one Raju Lilhare it reveals that the amount of Rs.2,00,000/- was deposited in the

account of present applicant. Thus, he submitted that present applicant is also the beneficiary of the said amount and therefore, application deserves to be rejected.

7) After hearing the learned counsel for the applicant and learned APP for State, perused the recitals of the FIR, as well as various statements recorded during the investigation, from which it reveals that the allegation against the present applicant is that she along with her husband induced various investors to invest the amount on the promise that they would get good returns after investing the amount. The statement of Raju Lilhare which is pointed out by the learned APP is also perused, which shows that he got acquaintance with Shashank Virulkar, (husband of the present applicant) and applicant and they induced him and deposit the amount on the promise of getting good returns, therefore he deposited the amount of Rs.2,00,000/- from the account of his mother Usha Lilhare and he has not received any returns of the said amount.

8) Learned counsel for the applicant has invited my attention towards the bank statement of the account of the present applicant and submitted that from the said bank statement it reveals that on the same day the said amount of Rs.2,00,000/- was transferred to the account of the husband of the present applicant. Thus, he submitted that at the most the said amount appears to be deposited by said Raju Lilhare on the say of the husband of the present applicant.

9) Considering that her husband is already behind the bar, the custodial interrogation of the present applicant is not required as nothing is to be recovered from her. The entire

investigation paper shows that the amount is accepted by the co-accused and not by the present applicant.

10) After hearing the learned counsel for the applicant, and learned APP for the State, perusal of the recitals of the FIR and various statements shows that it was the co-accused who induced and accepted the amount towards investment, only one statement shows that he has deposited some amount in the account of the present applicant which is immediately transferred to the account of the co-accused, who is her husband.

11) The involvement of the present applicant appears to be in the economic offence. The economic offence is dealt with by the Hon'ble Apex Court in the case of **Satender Kumar Antil vs. CBI** (supra) wherein the Hon'ble Apex Court held that the question for consideration is whether it should be treated as a class of its own or otherwise. The issue has already been dealt with by the Apex Court in **P.Chidambaram vs. Directorate of Enforcement (2020) 13 SCC 791** after taking note of earlier decisions governing the field.

12) The gravity of the offience, the object of the Special Act and the attending circumstances are a few of the factors to be taken note of along with the period of sentence. After all an economic offence cannot be classified as such, as it may involve various activities and may differ from one case to another. Therefore, it is not advisable on the part of the court to categorise all the offences into one group and deny bail on that basis. Suffice it to state that law, as laid down in the following judgments :

13) The Hon'ble Apex Court referring the para 23 in the case of **P.Chidambaram vs. Directorate of Enforcement**

(2020) 13 SCC 791 and in the case of **Sanjay Chandra vs. CBI (2012) 1 SCC 40** by referring para 40 held that the grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction to assure that he will submit to the jurisdiction of the court and be in attendance thereon whenever his presence is required.

14) It is further held that we are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge-sheet is already filed before the Special Judge, CBI, New Delhi and the accused is released on bail.

15) In view of the above observations if the facts of the present case are taken into consideration, the only allegation against the present applicant is that she along with her husband induced various investors to invest amount. As far as the acceptance of the amount is concerned, the allegation is levelled against the co-accused, who is her husband only the amount of Rs.2,00,000/- was received in the account of the present applicant that is also on the say of her husband. The said

amount is also transferred in the account of her husband subsequently.

16) Considering the role attributed to the present applicant, her custodial interrogation is not required. At the same time, the applicant is having a child aged about 12 years old, her husband is already behind the bar, there is no one to look after the small child. Considering all these facts, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order :-

O R D E R

1. Application is allowed.
2. In the event of arrest in connection with Crime No.70/2024, the applicant shall be released on anticipatory bail on executing PR Bond of Rs.25000/- with one surety in the like amount.
3. The applicant shall attend the concerned Police Station once in a week i.e. on Sunday between 10.00a.m. to 1.00p.m. for the investigation purpose and shall cooperate with the Investigating Agency.
4. The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(URMILA JOSHI-PHALKE, J.)

KOLHE