THE HONOURABLE DR.JUSTICE G. RADHA RANI

CRIMINAL PETITION No.4004 of 2024

O R D E R:

This Petition is filed by the petitioner – A2 under Section 437 and 439 of Code of Criminal Procedure for grant of regular bail in Crime No.358 of 2023 on the file of P.S. CCS (DD), Hyderabad, registered for the offences under Sections 406, 420 read with Section 34 of IPC and Section 5 of Telangana Protection of Depositors of Financial Establishments Act, 1999.

2. The case of the prosecution in brief was that on 23.12.2023 at 17:10 hours, the de-facto complainant lodged a report about the financial fraud played by M/s.Dhanwantari Foundation International (known as DFI) through numerous private limited companies floated by it. He stated that he came to know about M/s.Dhanwantari Foundation International through its marketing agents in the year 2011. On their inducement to invest in their organization related companies promising to pay 12% interest annually on the principal amount, he invested Rs.1,00,000/- in the year 2012 and as per their promise, they paid the interest. They developed trust and subsequently he invested money in different companies floated by M/s.Dhanwantari Foundation International and got returns from them till the year 2019. Subsequently, he invested in one of the companies by name M/s.DFI Nirmaan Private Limited for an amount of Rs.2,00,000/- on 11.06.2020 and entered into an agreement for

allotment of plot within 123 days and on condition that if M/s.DFI Nirmaan Private Limited failed to allot a plot, then interest would be paid @ 12.5% per annum. Later, on 02.11.2020, on their continuous pressure, he invested Rs.3,00,000/- in M/s.Dharani Shelters Private Limited in the form of debentures for a period of three years and they offered interest @13% per annum. Further on 24.04.2021, he invested Rs.5,00,000/- in DFI Hospitals Private Limited in the form of debentures for a period of three years and they offered interest @12% per annum. The investors were mostly retired employees and senior citizens aged between 60 to 85 years and invested their hard earned retirement benefits. The agreement between the companies and members were in the form of bonds executed by one of the whole time director Sri P.Kamalakar Sharma (the petitioner herein) and co-signed by the other director Mrs.Anuradha Akella. Even though, the due date for agreed refunds had expired long back, the companies defaulted in paying back the investment (principal). Further to their shock, the companies stopped paying even the promised interest with effect from April, 2022. After lot of persuasion and repeated requests to DFI Staff, they organized a meeting with Sri P.Kamalakar Sharma on 10.07.2023, who signed the Minutes of Meeting (MoM) and promised to pay the interest amount and also promised to pay the principal amount to some of the members on case to case basis. But, he failed to pay any interest amount or principal amount as promised by him to the investors / members. Alarmed by the situation, the complaint was lodged against Sri P. Kamalakar Sharma, Managing Director (petitioner herein) and other Directors of the companies (Mrs. Anuradha Akella-A3 and Mrs.P. Satyasri-A4).

3. Basing on the said report, the above crime was registered showing M/s.Dhanwantari Foundation International as A1 and its Managing Director Sri P.Kamalakar Sharma as A2 and Mrs. Anuradha Akella as A3 and Mrs. P. Satyasri as A4.

4. Heard Sri Y.Soma Srinath Reddy representing Sri Nageshwar Rao Pujari, learned counsel for the petitioner on record and the learned Additional Public Prosecutor.

5. Learned counsel for the petitioner submitted that the petitioner – A2 had not committed any offence as alleged by the de-facto complainant. He was falsely implicated in the above case. No inducement was made by the petitioner to invest in the companies even as per the complaint. As per the complaint itself, the de-facto complainant allegedly deposited substantial amount in the petitioner's company and received interest for a substantial period of time. The alleged default by the said company for a short period would not attract any criminal liability. *Prima facie*, it was a civil dispute. No criminal elements had been made out to constitute the offences under IPC or the offence under Section

5 of Telangana Protection of Depositors of Financial Establishments Act, 1999 and prayed to enlarge the petitioner on bail.

6. Learned Additional Public Prosecutor on the other hand contended that the petitioner was the Managing Director of the DFI companies. A1 company was established by the petitioner and one Subba Rao. It was exclusively working for the welfare of Brahmin community. A1 represented by A2 and others floated several companies like 1) DFI Nirmaan Pvt. Ltd., 2) Dharani Sheltors Pvt. Ltd., 3) DFI IT Solutions, 4) DFI Hospitals Pvt. Ltd., 5) DFI Ventures Pvt. Ltd., 6) DFI Infra Projects Pvt. Ltd. and 7) DFI Srujana Pvt. Ltd.. The petitioner-A2 along with other directors A3, A4 and others induced the *de-facto* complainant and other victims to invest amount with them by assuring to utilize the funds for the betterment of the community and also assured to give them interest @ 11% to 14% per annum, based on the period of the investment. He along with others issued debenture certificates to the victims towards the investment made with their floated companies by specifying the mode/rate of payment of interest amount along with principal. A2 along with other Directors executed agreements for allotment of plots in their proposed ventures at Yadagirigutta, Tirupathi, Vizag and Bangalore from 2012 onwards. A2 and others collected about Rs.3.75 crores from about 30 members by luring to give interest @ 11% to 14% every quarterly without fail and also allotment of plot in their proposed ventures but paid interest only for certain period that too nominal

amount and thereafter evaded payment of interest and allotment of plots to the victims and caused wrongful loss to the victims, as such, the petitioner was not entitled for grant of bail.

7. Perused the record.

8. As seen from the complaint, the complainant started investing amounts in different companies floated by DFI from the year 2012 onwards and he got returns as promised till 2019. Subsequently also, the complainant made investments in the year 2020 and 2021 and he received interest till April, 2022. Thereafter also, as per the MoM dated 10.07.2023 signed by the Managing Director (petitioner herein), he promised to pay the interest and principal amounts.

9. Thus, it cannot be stated that the Managing Director (petitioner herein) had an intention to cheat the complainant or other victims from the beginning. The complainant received interest for a long period of time from 2012 till April, 2022. The object of enacting the Telangana Protection of Depositors of Financial Establishments Act, 1999 was to protect the depositors from the hands of unscrupulous financial establishments which after offering attractive rate of interests and collecting deposits were vanishing suddenly. The companies floated by the petitioner along with others are in existence.

10. As seen from the remand report of the petitioner-A2, it would disclose that a substantial portion of the investigation was completed and about 28 witnesses were examined. As the evidence of the witnesses was already recorded and the presence of the petitioner herein was no more required for further investigation of the case and the petitioner was in custody since 14.03.2024, it is considered fit to release the petitioner-A2 on bail on certain conditions.

11. Accordingly, this Criminal Petition is allowed and the petitioner/A2 shall be released on regular bail subject to the following conditions:

i) The petitioner/A2 shall execute a personal bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties for a like sum each to the satisfaction of the Metropolitan Sessions Judge, Hyderabad.

ii) The petitioner/A2 shall abide by the conditions stipulated in Section 437(3) of Cr.P.C..

Miscellaneous applications, pending if any, shall stand closed.

Dr. G.RADHA RANI, J

Date: 19.04.2024
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