

THE HON'BLE Dr. JUSTICE G. RADHA RANI

CRIMINAL PETITION No.13115 OF 2024

ORDER:

This criminal petition is filed by the petitioner – accused No.6 under Sections 480 and 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail in Crime No.75 of 2024 of EOW Cyber (Cyberabad) Police Station, Medchal - Malkajgiri District, registered for the offences under Sections 316 (2), 318 (4), 61 (2) of Bharatiya Nyaya Sanhitha and Section 5 of Telangana State Protection of Depositors of Financial Establishment Act, 1999.

2. The case of the prosecution, in brief, was that on 21.10.2024 at 10:45 hours, the *de facto* complainant lodged a report before the Deputy Commissioner of Police, Economic Offences Wing, Cyberabad stating that in December, 2022, he got a call from 'Square and Yards Company', wherein a telecaller explained him over phone about their buy back scheme. He was lured by their scheme. In the same month, he visited their office located in 8th floor, 810 Block, Manjira Trinity Corporate Survey No. 1050, Kukatpally, Hyderabad, wherein accused No.1 represented himself as the Director and

his wife Jahnavi represented as the Additional Director of M/s. Square and Yards, Byra Ajay Babu, designated partner, Venkata Akhil Garimella, Additional Director of Square and Yards, D. Raja Sekaram, owner of land in Sy.Nos. 189, 208, 211 and 212 (Extent of Ac. 23-25 guntas) situated at Tirumalagiri village, Balanagar Mandal, Mahaboobnagar District, Chaitanya Reddipalli of M/s. Ad Avenues (present petitioner herein) explained about their schemes and offers and stated that they were jointly promoting the ventures and that they would give good returns every month and that they would register one gunta of Agricultural land at Tirumalagiri Village Balanagar Mandal, Mahaboobnagar District and would also issue post dated cheques as collateral security. Convinced by their words that if he deposited Rs. 17 lakhs, they would give Rs. 30,000/- every month for a period of 100 months and as they promised that by investing in the project land, the land value would be appreciated over a period of 12-15 years and along with that Chandra Sekar Byra also promised that they would plant sandal wood plants and after 12-15 years by selling the sandalwood trees he could get share of 50% profits, he deposited Rs. 34 lakhs in March, 2023

for which they registered two plots each one of Ac.0-02220 (267 Square yards) of land in Sy.No. 190E/1/1/1/1/2 situated at Tirumalagiri village, Balangar Mandal, Mahaboobnagar District in his name and in the name of his wife A. Latha and gave him four post dated cheques of Rs. 30 lakhs towards collateral security and entered into MOU. After depositing the said amount they sent Rs. 60,000/- every month from March, 2023 to September, 2023. On his reference, one of his friend Challa Mrudula Paul also invested Rs. 40 lakhs in July, 2023 in the said Company. She also received returns for three months only. All of a sudden, they stopped sending any amounts to his account from September, 2023. Immediately, he called Chandra Sekhar Byra, but he failed to respond to his calls. After that, he went to the office and found that it was vacated. In a similar manner, they cheated several other victims to an extent of Rs. 3,30,75,000/- in the name of high returns/profits. Basing on the said report, the above crime was registered. Accused Nos.1, 2, 4 and 6 were arrested on 23.10.2024.

3. Heard Sri V. Mallik, learned counsel appearing for the petitioner and learned Additional Public Prosecutor for respondent-State.

4. Learned counsel for the petitioner submitted that the petitioner/accused No.6 was running an advertisement agency. He was not connected with the Square and yards Company. He only advertised the business of Square and Yards in respect of real estate venture. The ingredients of the offences under Sections 316 (2), 318 (4) of BNS and Section 5 of TSPDFE Act would not attract to the petitioner. Section 5 of Telangana Protection of Depositors of Financial Establishments Act, 1999 would not attract, as the definition of 'deposit' under Section 2 (b) of the Act would not include the investments made for transfer of immovable property and relied on the judgments of this Court in W.P.No. 8013 of 2021 and in CrI.P.Nos.2906 and 2907 of 2023 dated 24.01.2024.

5. Learned Additional Public Prosecutor on the other hand contended that the petitioner had induced the general public by advertising about the business of Square and Yards Company

and he also used to take commission for every plot/Green unit sold to the customers. As per the confession of accused No.1, they have collected money from 120 members extending to Rs. 24 crores and registered around 160 plots in Sy.No. 189, 190, 208, 211 and 212 situated at Tirumalagiri village, Balanagar Mandal, Mahaboobnagar District in the name of customers/investors, but they did not plant any sandal wood plants in the said land as promised in MOU. Accordingly, Section 61 (2) of BNS was also added to the existing provisions. If the petitioner was released on bail, he might tamper the evidence or cause disappearance and prayed to dismiss the bail application filed by the petitioner.

6. Considering the submissions of the learned counsel for the petitioner and the judgments of this Court in W.P.No. 8013 of 2021 and in Crl.P.Nos.2906 and 2907 of 2023, wherein, it was held that as per Section 2 (b) of the Telangana Protection of Depositors of Financial Establishments Act, 1999, which defines the term 'deposit' would mean the deposit of a sum of money either in lump sum or installments made with a financial establishment for a fixed period, for interest or return in any

kind. As it would not include investments made for transfer of immovable property, it is considered that Section 5 of the TSPDFEA, would not *prima facie* attract and as the other offences under Sections 316 (2) and 318 (4) were also punishable with imprisonment for less than 7 years and as the petitioner was in custody since 3.10.2024 and his guilt or innocence can be decided only after a full-fledged trial and his custody was not required for any custodial interrogation, it is considered fit to enlarge the petitioner on bail.

7. In the result, this Criminal Petition is allowed, directing the petitioner – accused No.6 to be released on bail, subject to the following conditions:

- i) The petitioner - accused No.6 shall execute a personal bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) with two sureties each for a like sum to the satisfaction of the XII Additional Judicial Magistrate of First Class, Medchal-Malkajgiri District at Kukatpally.
- ii) The petitioner – accused No.6 shall abide by the conditions stipulated in Section 480 (3) of Bharatiya Nagarik Suraksha Sanhitha, 2023.

Miscellaneous applications, if any, pending, shall stand closed.

Dr. G. RADHA RANI, J

Dt: 07.11.2024

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