IN THE COURT OF THE XXVIII ADDL. CITY CIVIL & SESSIONS JUDGE
Mayo Hall, Bengaluru, [CCH.NO.29]

Present: - Smt. B.S. Bharathi, B.Sc., LL.B.

Dated: This the 18th day of March 2020

Crl.Misc.No.25106/2020

Petitioners:

1. Smt. Aruna,
W/o. Jayanth Yadav,
Major in age.

2. Sri. Jayanth Yadav,
S/o. Ramesh S.,
Major in age,

Both are r/at No.7, 1st Main
2nd Cross, behind Tippu
Convent, Someshwaranagar,
1st Block, Bangalore South,
Jayanagar 3rd Block,
Bangalore-560 011.

(Pleader By : Sri. Santhosh & Srinivasan, Adv.,)

.. Vs ..

Respondent: The State of Karnataka by
Banaswadi Police Station,
Bengaluru.

(By Public Prosecutor)

ORDER

This Petition is filed by the petitioners against the Respondent U/Sec.438 of Cr.P.C., praying for releasing them on bail in Crime No.54/2020 for the offences punishable under Section 420, 468, 465 r/w. 34 of IPC.

2. According to the petitioners, the Respondent Police have registered case against the Petitioners for the offences punishable under Sections 420, 465, 468 r/w Section 34 of IPC. It is alleged that the Petitioners approached the complainant to invest in investment business that yields more profit in the month of May 2016. Hence, the complainant invested Rs.1,46,00,000/- from April 2016 to October 2016. It is alleged in the complaint that, the Complainant is running Guest House business. The Complainant and the Petitioners are known to each other as relatives of the Complainant's Husband. In the month of May 2016 the Petitioner forced the Complainant to invest money in investment business and the Petitioners assured the high profit from the said investment business in the form of interest. As the Petitioners are relatives to the Complainant and the assurance given by the Petitioners, the Complainant's Husband invested Rs.1,46,00,000/- from April 2016 to

October 2016, and later paid Rs.16,00,000/-. Later, the Petitioner paid Rs.16,00,000/- as profit to the Complainant. Later again Rs.1,25,00,000/- was invested by the Complainant. On receiving the information that money of DJ investment blocked and the Complainant not receiving money and a new Company named VC Investment has to be opened, the Complainant agreed to get license in his name and paid Rs.6,50,000/- for that. The Complainant alleges that, the Petitioner through E-Mail and requested to deposit money into 4 different bank accounts. But the Complainant refused to deposit money to 4 different bank accounts and said that she will deposit only to the Petitioners bank account. Later the complainant deposited Rs.3,00,000/- to Bank A/c No. 041313100148 of Mr. Manoj Kumar, and the said Bank Account Number was said to be given by the Petitioner. It is also alleged that the Complainant informed about Mr. Yogesh, Mr. Manoj Kumar, Smt.Jayalakshmi and Sourav Chakravarthy all are working office. The Complainant to open offices at Jayanagar and Hoodi by paying advance of Rs.4,50,000/-

and Rs.4,30,000/- respectively, inspection of both the offices were not done. The petitioners created fake website in the Company name and assured the Complainant of making more profit by investing in the said Company and cheated the complainant Rs.13,52,58,600/-. Hence, the Complainant has lodged the complaint. Basing on the same, the Respondent Police have registered case in Cr.No.54/2020.

3. According to the Petitioners, they are innocent of the offences alleged against them. According to the Petitioners, the Complainant has stated that he has given Rs.13,52,58,600/- which is unbelievable and not admissible version in the complaint. The offences are not punishable with death or imprisonment for life. They are ready to abide by any conditions imposed by this Court. Hence prays for releasing the petitioners on bail.

4. PP has filed objection to this petition stating that the offences alleged against the Petitioner is heinous in nature, since the Petitioner has cheated the amount to the tune of Rs.13,52,58,600/- and created documents

and thereby committed heinous offence. If the Petitioner is released on bail he may tamper the witnesses and flee from the jurisdiction of the Court and prays for rejecting the bail application on several other grounds.

5. IA under Section 302 of Cr.P.C., is also filed by the Complainant praying for permission to assist the prosecution on the ground that if Petitioners are granted bail, she will be put to greater hardship. Hence, prays for allowing the application on several other grounds.

6. The Petitioners have filed objections to the application filed by the Complainant stating that at this stage there is no necessity to allow the application filed by the Complainant and no hardship will be caused to the Complainant. Hence, prays for dismissing the application filed by the Complainant seeking permission to assist the Prosecution.

7. Basing on the above said facts following points that arise for my consideration are:

1) Whether the Petitioners have made out ground for granting anticipatory

bail under Section 438 Cr.P.C.,?

2) Whether it is necessary to allow the application filed under Section 302 of Cr.P.C., filed by the Complainant?

3) What order?

8. Heard both the sides.

9. My findings on the above Points are:

Point No.1 : In the Negative.

Point No.2 : In the Negative.

Point No.3 : As per final order for the following:

<u>REASONS</u>

10. **<u>Point No.1</u>**:- As per the complaint filed by Complainant by name Smt. Venkat Radha, the Complainant has stated that the accused insisted for investement in the business in the month of May 2016. Since, they are the relatives of the Complainant's husband, she believed the same. She gave Rs.1,46,00,000/- between April 2016 to October 2016 by

taking loan from her relatives. They have returned only Rs.16,00,000/- stating that there is a profit in the business. Later on, she has invested Rs.16,00,000/-. Thereafter, she has invested Rs.1,25,00,000/-. The accused have returned Rs.3,25,000/- per month up to June 2018. Later, the accused stated that the amount is blocked in DJ Investment and they will do investment through VC Investment and Management and took licence in the name of the Complainant and also took Rs.6,50,000/- for obtaining licence for the same. Even though, the Complainant and her husband asked the accused to show the office where they have made DJ and VC Investments, the accused did not take the Complainant and her husband there. On 13.11.2017 these Petitioners sent E-mail and asked the Complainant to give the amount and deposit the amount to four different accounts. However, the Complainant transferred the amount only to the account of the Petitioner No.1 Aruna. Later on, she has also transferred Rs.3,00,000/- to the Canara Bank account of a person by name Manoj Kumar. Since, the accused has stated that

Mr. Yogesh, Mr.Manoj Kumar, Smt. Jayalakshmi and Sourav Chakravarthy all are working in his office. She has given Rs.1,50,00,000/- cash to the Aruna Petitioner No.1 in the house of Srinivasa situated at Chikkabanasavadi. Later on, they have opened office at Koramangala 4th Block in the name of the Complainant. The Complainant had given Rs.4,50,000/- to the said office also. She has given Rs.70,000/- rent to the said office for seven months. Later she has closed the said office as there was no inspection. Since, the Complainant's son underwent operation she could not invest money and hence accused stated that if she does not invest money she has to cancel the licence. Hence, she sent an E-Mail for cancelling the licence on 21.5.2018 and the licence was cancelled in the month of August 2018. The Petitioners came to the house of mother-in-law of the Complainant and stated that Rs.2,50,00,000/- is released and also stated that she has to sent E-Mail for release of that amount. Later, when she sent an E-Mail requesting her to refund the amount they have stated that only if she invest the said amount they will refund the amount. Accordingly, she gave Rs.4,30,000/-as advance and Rs.48,000/- rent per month and opened the office and gave rent for one year. Again nobody inspected the office. They have pledged their four Cars and credit cards and they have invested money for VC investment till 4.4.2019. According to the Complainant, these accused have taken total amount of Rs.13,52,58,600/- from the Complainant and cheated the Complainant. Hence, she has given complaint. When she enquired, she also came to know that no Company was opened by the accused and thereby cheated this Complainant.

11. On perusal of the nature of the offences alleged against the Petitioners, it is clear that it is alleged in the complaint that Petitioners have cheated the amount to the tune of Rs.13,52,58,600/- that is very huge amount. The Police have to make investigation and to find out the actual truth of it. When huge amount is involved and when there is allegations against the accused that the Petitioners have cheated huge amount of the Complainant, I feel that in such type of cases if

bail is granted it will tell upon the society and it will also have impact on the investigation of the police. The Petitioners may also likely to tamper the witnesses and documents. Therefore, I feel that there is no ground made out by the Petitioners for granting bail. Hence, I answer Point No.1 in the Negative.

12. **Point No.2**:- The Complainant has filed application seeking permission to assist the PP, since PP has already filed detailed objection along with the report, at this stage, there is no necessity for the Complainant to give permission to assist the Prosecution. Hence, I answer Point No.2 in the Negative.

13. **Point No.3**:- In view of answering Point No.1 and 2 in the Negative, I pass the following:

ORDER

The Petition filed by the Petitioners under Sec.438 Cr.P.C., is rejected.

The application filed under Section 302 of Cr.P.C., by the Complainant is rejected.

The Interim Bail granted to the Petitioners is also cancelled.

[Dictated to the Stenographer, transcribed and typed by her and there afterwards correct, signed and pronounced by me on 18th day of March 2020].

[**B.S. Bharathi**],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bengaluru.

Order pronounced in the open court (vide separate order).

<u>ORDER</u>

The Petition filed by the Petitioners under Sec.438 Cr.P.C., is rejected.

The application filed under Section 302 of Cr.P.C., by the Complainant is rejected.

The Interim Bail granted to the Petitioners is also cancelled.

[**B.S. Bharathi**],
XXVIII. Addl. City Civil Judge,
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