

MHKO010051002022



ORDER BELOW EXH. 50 IN SPECIAL (MPID) CASE No.285/2022

The accused No.9 Vaishali Vishwas Koli, apprehending her arrest in C.R.No. 739/2022 registered in Shahupuri Police Station under Section 420, 406, 409 read with 34 of the Indian Penal Code, 1860 r/w. Section 3, 4 and 6 of the Maharashtra Protection of Interest of Depositors Act,1999 (MPID Act) with Section 21 of the Banning of Unregulated Deposit Schemes Act, 2019, has filed this application for pre-arrest bail under section 438 of the Criminal Procedure Code, 1973.

2. The indictment of the applicant is that the accused No.1 to 5 (Koli family) formed a company by name 'Grobuzz Trading Services' and invited the general public to make investment in that company assuring them that the company will give 15% returns in 10 months. As the scheme was attractive, several persons including the informant invested the amount in the company but the company could not give the agreed returns. The complainant Raghunath Khodke lodged the complaint and based on it, the crime was registered against 15 accused. During investigation the strength accused continued to increase. It was disclosed during the investigation that there are other three sister concerns of the Grobuzz Trading Services namely, 'G.B. Welfare Partnership Firm', 'Grobuzz India Urban Nidhi Pvt. Ltd'. and 'Grobuzz Multi Trade LLP Ltd'. The present applicant was alleged to be one of the directors of the Grobuzz India Urban Nidhi Pvt. Ltd. She is the wife of the prime accused No.1,Vishwas Koli and during investigation, it is disclosed that these accused with common intention an object have cheated the investors and put them in loss of total rupees 8 Crores.

3. According to the applicant, she is neither the partner, manager nor an employee of the company 'Grobuzz India Trading Services'. She is not the recipient of any amount invested by the informant or any other investors. The applicant is studied upto 10th Std. and is a housewife. She has no active role in the business of the Grobuzz India Urban Nidhi Pvt. Ltd. and she was just a sleeping (nameshake) director of it. The entire business of this company was being look after by her husband Vishwas Koli and he was the authorized signatory. The applicant will abide by all the conditions that would be imposed by this Court. The investigation is over and chargesheet is submitted. Hence, she prays that she be released on anticipatory bail.

4. The say of prosecution was called and the prosecution has resisted this application by filing say (Exh.98). It is contended that the applicant being the director of Grobuzz India Urban Nidhi Pvt. Ltd, she is responsible for the business of the said company and therefore, she is made an accused. The accused Koli family had 214 IDs and they have invested Rs. 12,42,500/- and against it they have received returns and commission of Rs. 4,70,47,742/-. Even though the chargesheet is submitted, the further investigation of this crime is going on and scientific evidence is being collected. From the data collected during investigation, it is disclosed that near about Rs. 219 Crores amount has been invested through 26,000 IDs and the returns of about Rs. 90 Crores has to be recovered. Thus, the custodial interrogation with the applicant is necessary.

5. Heard Shri. A.A. Dange, the learned advocate for the applicant and Shri. A.M. Peerzade, the learned APP. The informant has intervened through his advocate Shri. S.R.Mane, who submits that considering the fact that huge money has been involved in this crime and present applicant being the wife of the accused No.1 Vishwas Koli

and is director of one of the company, she cannot avoid her liability to pay the amount of the investors. One photograph was produced on record snapped during some function of the applicant with her husband and list of contact numbers of seven accused has been filed on record to show that the applicant had active participation in the business of the company. Thus, according to the learned advocate the applicant may not be released on anticipatory bail.

6. Perused the case papers and grounds for anticipatory bail. The prime accused including the husband of the applicant have been arrested but the Investigating Officer could not arrest the applicant since 19/09/2022. The only allegation against the applicant is that she is the director of Grobuzz India Urban Nidhi Pvt. Ltd. There is nothing to show that the applicant has played any active roll in that company. The chargesheet has been submitted. The accused No. 5 and 10 to 14 have been already released on bail. There was no sufficient material against the applicant showing her direct concern to the alleged misappropriation or cheating.

7. The reliance is placed by the learned advocate for the applicant Shri. Dange, on the judgment of the Hon'ble Supreme Court in *Sunil Mittal V. Central Bureau of Investigation [(2015) 4 SCC 609]*, wherein it is held that, the principle that intent of persons controlling company can be imputed to company based on principle of "alter-ego". However, reverse application of this principle is not permissible. When the company is the accused, its directors can be roped in only if (a) there is sufficient incriminating evidence against them coupled with criminal intent or (b) the statutory regime attracts the doctrine vicarious liability.

8. In *Vidya Yalla Vs. State of Maharashtra [2019 SCCOnline Bom 11218]*, wherein the applicant had retired from the firm and there was no evidence that she made any false representation or signed any document. The anticipatory bail application was therefore, allowed. In *Radhika Phate Vs. State of Maharashtra [ABA No.2040 of 2022 decided on 26/08/2022]* wherein, the applicant was the wife of the main accused and prima facie she was not the director of the company and was not involved in running the business of the company. The amount lying in her bank account had frozen. In the circumstance, it was held that it is not a fit case which would justify custodial interrogation. The anticipatory bail was therefore granted.

9. Shri. A.M. Peerzade, the learned APP submits that the applicant has direct connection to the company formed by Koli family and the record and electronic devices seized during the investigation directly points the involvement of the applicant in alleged crime. The amount siphoned is about rupees 8 Crores and therefore, it will not be appropriate to release the applicant on anticipatory bail.

10. The present applicant is the director of the company Grobuzz India Urban Nidhi Pvt. Ltd. However, there is no *prima facie* evidence that she has personally collected any amount or misappropriated it for her personal benefit. The investigating papers disclose that all the bank accounts of Koli family have been frozen and concerned authorities have been informed not to allow any transfer of the properties standing in their names. As such, I am of the view that the applicant would be entitled to be released on anticipatory bail on certain conditions to ensure further investigation if any with her. Hence, the order.

ORDER

- 1) Bail Application is allowed.
- 2) In the event of arrest of the applicant Vaishali Vishwas Koli, who is an accused No.9 in C.R.No. 739/2022 registered in Shahupuri Police Station under Section 420, 406, 409 read with 34 of the Indian Penal Code, 1860 r/w. Section 3, 4 and 6 of the Maharashtra Protection of Interest of Depositors Act, 1999 with Section 21 of the Banning of Unregulated Deposit Schemes Act, she be released on bail on her furnishing P.R. bond of Rs.1,00,000/-with one solvent surety of the like amount on following conditions:
 - i) The applicant shall furnish her current address and contact number and the information shall be updated, if there is any change.
 - ii) The applicant shall scrupulously attend each date of hearing.
 - iii) The applicant shall report at Shahupuri Police Station as and when directed in writing.
 - iv) The applicant shall not tamper with the evidence or make any attempt to influence the witnesses, directly or indirectly.
 - v) The applicant shall not transfer her movable or immovable properties without prior permission of this Court.
 - vi) The applicant shall not leave the India without the prior permission of the this Court.
- 3) The breach of any of the conditions would entail a ground for cancellation of the bail.

Date: 10/03/2023

(S.R. Salunkhe)
Special Judge (MPID),
Kolhapur.