

THE HONOURABLE DR.JUSTICE G. RADHA RANI

CRIMINAL PETITION Nos.3119 and 3122 of 2024

COMMON ORDER:

These Criminal Petitions are filed by the petitioners – A3 and A4 under Section 438 of Code of Criminal Procedure for grant of anticipatory bail in the event of their arrest in Crime No.358 of 2023 on the file of PS INSP ADMN (DD), Hyderabad, registered for the offences punishable 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 fails 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 and co-signed by the other director Mrs.Anuradha Akella (petitioner – A3 herein). 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 and other Directors of the companies (Mrs.Anuradha Akella – A3 herein and Mrs.P.Satyasri - A4 herein).

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 petitioners on record and the learned Additional Public Prosecutor.

5. Learned counsel for the petitioners submitted that the petitioners – A3 and A4 had not committed any offence as alleged by the de-facto complainant. They were falsely implicated in the above case. No inducement was made by the petitioners to invest in the companies even as per the complaint. As per the complaint itself, the de-facto complainant allegedly deposited substantial amount with the petitioners' company and was receiving the 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 petitioners on anticipatory bail.

6. Learned Additional Public Prosecutor on the other hand contended that the petitioners are the directors of the DFI companies. They actively participated in the affairs of the company and entered into an agreement with victims. Their names were stated by the victims in their statements. The petitioners defaulted to repay amount even after the maturity period, which would attract Section 5 of the Telangana Protection of Depositors of Financial Establishments Act, 1999 and other offences registered against them under IPC and prayed to dismiss the anticipatory bail petitions filed by the petitioners.

7. Perused the record.

8. As seen from the remand report of A2, M/s.Dhanwantari Foundation International was established by A2 and one Subba Rao in the year 2004. As per 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, he promised to pay the interest and principal amounts.

9. Thus, it cannot be stated that the Managing Director or the Directors of the company 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 petitioners or the companies floated by them had not vanished.

10. The role of the present petitioners was not stated by the complainant specifically except stating that they were the directors of the said companies. The names of about seven companies were stated by the de-facto complainant. But he had not stated whether the petitioners were the Directors of some companies or all the companies. The remand report of A2 was also silent about the role played by the petitioners – A3 and A4. It was noted therein that the role of A3 and A4 would need to be ascertained. The remand report of A2 would disclose that a substantial portion of the investigation was completed and about 28 witnesses were examined. But even after examination of all the

said witnesses and even after the arrest of A2, the role of the present petitioners – A3 and A4 was not ascertained by the Investigating Officer.

11. Considering that the petitioners being women and their role in the offences was not specifically stated either by the complainant or by the Investigating Officer in the remand report of A2 and the evidence was in the form of statements of witnesses, which was already recorded and if there was any other documentary evidence also, it could be gathered by the Investigating Officer without the help of the present petitioners herein, it is considered fit to grant anticipatory bail to the petitioners – A3 and A4 conditionally.

12. In the result, the Criminal Petitions are allowed and the petitioners – A3 and A4 are granted anticipatory bail subject to the following conditions:

(i) The petitioners – A3 and A4 are directed to surrender themselves before the Station House Officer of PS INSP ADMIN (DD), Hyderabad within a period of (15) days from the date of this Order, and on such surrender, the SHO of PS INSP ADMIN (DD), Hyderabad shall release the petitioners – A3 and A4 on bail on their executing a personal bond for a sum of Rs.50,000/- each (Rupees Fifty Thousand Only) with two sureties for a like sum each to the satisfaction of the said Station House Officer.

(ii) The petitioners – A3 and A4 shall comply with the conditions stipulated under Section 438(2) of Cr.P.C. and shall

appear before the Investigating Officer as and when their presence is required and have to co-operate with the Investigating Officer in conducting the investigation.

As a sequel, miscellaneous applications pending in these petitions, if any shall stand closed.

Dr. G. RADHA RANI, J

Date: 22nd March, 2024
Nsk.