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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ BAIL APPLN. 753/2020 (URGENT)

ARCHANA BALCHANDRA WAGH Petitioner
Represented by: Mr.Aditya Aggarwal, Adv.

Versus

STATE Respondent
Represented by: Mr.Panna Lal Sharma, APP for
State.

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

% **26.05.2020**

1. The hearing has been conducted through video conferencing.
2. Present petition has been filed by the petitioner under section 439 Cr.P.C. for grant of regular bail in pursuance to FIR No.78/2019 registered at Police Station Parliament Street for the offences punishable under section 420/467/468/471 IPC.
3. The case of prosecution against petitioner is that she has received a work order of Rs.1,00,00,000/- (Rupees One Crores) from Phoenix International Trading Company, Vashi, Navi Mumbai, Maharashtra, India for supplying 5 nos. Oil Gas Pump Set Machines to the company for which she has shown/produced one work order copy which was on the company letter head of Phoenix International Trading Company, signed by Anand Soni. Petitioner further disclosed that she received a sum of Rs.62,75,000/- vide cheque No.329205 dated 26.06.2019 A/c No 601610100047269 from

Anil Kumar Sinha (complainant) for 5 nos Oil Gas Pump Set Machine and the same amount has been spent by her in purchasing the machinery.

4. Learned APP for State submitted that during investigation, she further disclosed the name of one Anand Kumar Ganesh Ram Mandan S/o Late Sh. Ganesh Ram Mandan who is having a company in the name of Phoenix International Intending Enterprises which deals with Broking, Trading, International Intending, Import - Export of food products, Agricultural products, Perishable and Non Perishable, APMC related products, Faming Products and she received an order from Phoenix International Trading company for 5 Oil Gas Pump Sets Machines.

5. Learned APP further submits that Deepak Kumar is absconding and Anand Kumar Ganesh Ram Mandan has been granted bail by trial court on the ground that he was not beneficiary to the amount of Rs.1 crore which he received against the order of machines placed by petitioner and Deepak, her co-associate. Thus, petitioner alongwith accused has cheated complainant, therefore, there is no merit in the present petition and the same deserves to be dismissed.

6. The case of the petitioner is that a cheque bearing no. 329205 amount of Rs.62,75,000/- was presented and was credited on 26.06.2019 in the account no. 050730110000157 in favour of M/s Shree Engineering on which it is purported that petitioner Archana Balchandra Wagh is a proprietress. However, petitioner was arrested on 27.09.2019 and her disclosure statement was recorded under custody on 29.09.2019 whereby she stated that her company M/s Shree Engineering had received an order from Phonex International Trading Company for 5 oil gas pump set and in respect thereto, on 26.06.2019 Anand Soni (owner of Phonex International Trading

Company) has paid Rs.62,75,000/- to M/s Shree Engineering which she spent for purchasing raw material and machinery.

7. Counsel appearing on behalf of petitioner further submits that at the time of apprehending petitioner, she had also provided a photocopy of the letter which was issued by the Phoenix International Trading Company by which the said company has to release an advance for an amount of Rs.1,00,00,000/-. On 21.10.2019, the specimen signature of Anand Soni, co-accused was also obtained by the order of Court and on 21.11.2019 specimen signatures of both the accused including petitioner were sent to FSL. FSL report regarding specimen signature matching is still awaited.

8. He further submits that the police by letter dated 30.07.2019 had also asked the bank officials about the details which were asked by Crime Branch about the details of staff who has login and accessed the accounts where fraud has incurred during the month. As per the said document, not only the alleged fraud of Rs.62,75,000/- occurred in the month of June, 2019 but another fraud of Rs.65,00,000/- had occurred in the account of account holder namely Neha Jain. The Bank has also provided information in respect of the details of employees who were involved in clearing of the subject/alleged cheque and three names were given by the said bank which are:- Priyanka Mani, Ganga Singh Panchpal and Sanjeev Gulati.

9. It is further submitted that in chargesheet, Police had filed bank statement of M/s Shree Engineering Company and bank statement of Anil Kumar Sinha being the complainant and author of the F.I.R. Petitioner came in contact with one person namely Deepak Ramdas Sabale in the year 2018 and he was the owner of the property bearing no. Shop No.2, Floor No. Ramdas Nagar, Building Name Shree Engineering, Block Sector Chikhali-

412114, Road - Vmdhashram, City Chikhali, District Pune GAT Number 1635 and in respect thereto, he has given a proposal to applicant to sit in the company as Proprietress and all the dealing work would be done by him. The petitioner was only a nominal head in the said company and all the works were being done by Deepak Ramdas Sabale and she was totally unaware about the cryptic and fraudulent mentality of Deepak Ramdas Sabale that he has an ulterior motive to use the name of petitioner. As stated by counsel for petitioner that a lease deed was executed between the petitioner and Deepak Ramdas Sabale on 21.07.2018 for the period of 60 months wherein it was mentioned that the cash amount deposited by the applicant was only Rs.10,000/-, further, the amount of lease as depicted in the lease deed was Rs.6,000/- for 12 months and then Rs.6,300/- for the next 12 months and then Rs.6,615/- for the next 12 months and then Rs.6,945/- for the next 12 months and then Rs.7,293/- for the next 12 months and all lease deed amount will be increased on the same proportional.

10. It is not in dispute that Deepak Ramdas Sabale is an absconder (despite issuance of several notices and summons he has not even once turned up for investigation and NBWs have also been issued against him by the trial court on 02.03.2020) who had his own company under the name of M/s D.S engineering work and it further seems that he had taken petitioner in his confidence by managing her entire business work.

11. Keeping in view the fact that Petitioner is 40 years of age having two minor children and is in JC since 27.09.2019 and chargesheet has already been filed after investigation against her but charges are yet to be framed and limited court functioning is in operation due to outbreak of COVID-19 pandemic, I am of the opinion that, without commenting upon the merits of

the case, petitioner deserves bail.

12. Accordingly, she shall be released on bail on her furnishing personal bond in the sum of ₹25,000/- to be produced before Jail Superintendent concerned and a surety of the like amount to the satisfaction of Trial Court as and when, the Court starts its regular functioning.

13. Petitioner shall not involve herself in any other case and in the event of any report against her, this Court would consider the desirability of cancelling the bail.

14. It is also made clear that petitioner shall not influence any of the witnesses whatsoever.

15. The Trial Court shall not get influenced by the observation made by this Court while passing the order.

16. In view of above, present petition is allowed and disposed of.

17. Copy of this order be transmitted to the Jail Superintendent and concerned Trial Court for necessary compliance.

18. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through email.

SURESH KUMAR KAIT, J

MAY 26, 2020

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