

**IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS
AT PANAJI**

**(Before Ms. Dvijple V. Patkar, Judicial Magistrate, F.C. 'C'
Court, Panaji.)**

Criminal Misc.Appln.No.46/2013/C.

Ana Luisa Onofre Alves Bento,
d/o Francisco Diego Alves,
45 years of age, Indian National,
r/o S-2, Sai Complex,
Near Honda Showroom,
Taleigao, Tiswadi-Goa.

.... Applicant

V/s

1. S T A T E
(Through P.I. attached to
CID, Economic Wing,
Panaji, Goa)

2. The Asst. Public Prosecutor,
attached to the JMFC Court,
Panaji-Goa.

... Respondents

Applicant represented by Learned Adv. Shri. N. Pawaskar at the time of arguments.

Respondents represented by Learned APP. Ms. J. Santamaria at the time of arguments.

O R D E R

(Delivered on this the 18th day of the month of February, of the year 2013)

This Order shall dispose off the application to defreeze the bank accounts of the applicant and her company and to release the applicant's office premises from attachment.

2. The respondent no.1 through the investigating officer has objected to the application by reply at Exh.D-2 on the ground that the office was the place used by the applicant for commission of the offence and the articles of the company of the applicant/accused are lying in the office. The respondent no.1 has further stated that the investigating officer conducted search cum attachment panchanama and attached documents and articles required in the offence comprising of books, files, documents and hard disk of the computer. All the other articles comprising of computer system, furnitures, fixtures, air conditioners, invertors, etc were retained as it is in the office. The office was closed and

the keys and possession of office was handed over to Mr. Jaime Pereira De Souza Bento who was the Incharge of the said office during the search and the husband of the applicant.

3. Learned Adv. Shri N. Pawaskar argued on behalf of the applicant. Learned APP Ms. J. Santamaria argued on behalf of the respondents.

4. I have perused the material on record and also the case papers of the investigating officer and have considered the arguments. I have also heard the investigating officer.

5. Learned Advocate for the applicant has submitted that the complainant is the actual culprit and the applicant has not committed any offence as she became the Managing Director of the Company only in the month of May 2012. He has submitted further that the accused company cannot function without the office premises and since the accounts are freezed. He has submitted that the salary of the applicant only is transferred from the Company's account to the applicant's personal account.

6. On the other hand, Learned APP and the investigating officer have submitted that if the accounts are defreezed, the

applicant who is a foreign national might abscond and the money will not be available to settle the claims of the investors. As regards the office premises is concerned, the investigating officer has submitted that he has attached relevant documents and hard disks from the office and has taken the same in his custody and the other articles are kept in the office.

7. The investigating officer has expressed a reasonable apprehension that the applicant who is foreign national might not be available for investigation or trial if the accounts are defreezed. The possibility of the amount being not available for settlement of the claims of the innocent investors also cannot be ruled out. The offence is an economic offence involving a huge sum of money. Therefore, in my view, request for defreezing of the accounts cannot be granted at this stage.

8. As regards the attachment and release of the office premises of the applicant is concerned, the say of the investigating officer has revealed that the relevant articles such as books, files, documents and hard disks of the computer which are connected to the offence are attached by him and kept in his custody. Since the relevant articles are attached by the investigating officer, the office premises can be released from attachment on certain conditions.

9. Since the applicant has sought permission to travel abroad, the office premises shall be released from attachment only upon her return to Goa so as to ensure that she returns to Goa and makes herself available for investigation.

10. Hence, the application is partly granted. The office premises of the accused company, Banners Broker India Ltd at 59/60, Block B, 2nd floor, Alfran Plaza, Panaji, shall be released from attachment only after the applicant returns to Goa from abroad and reports to the Investigating Officer on 05/03/2013.

Pronounced in the Open Court.

(Ms.Dvijple V. Patkar)
*Judicial Magistrate First Class, C-
Court, Panaji.*

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