HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6303 of 2015

Rakesh Anant, S/o. Ratiram Anant, Aged About 27 Years, Caste Satnami, R/o. Pragati Maidan, Near Mandi Gate, Pandri Tarai, P.S. Pandri, Civil & Rev. Distt. Raipur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through: Station House Officer, P.S. Dallirajhara, Distt. Balod, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Awadh Tripathi, Advocate
For Respondent	:	Mr. Ramakant Mishra, Dy. A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

24/11/2015

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.166/2015 registered at Police Station- Dallirajhara, District Balod (C.G.) for the offence punishable under Section 420 of IPC & Section 3, 4, 5 of the Prize Chits & Money Circulation Scheme Banning Act, 1978.

2. Case of the prosecution, in brief, is that joint report was made by the depositors that the company namely SPNJ Land Project & Developers India Limited have collected approximately an amount of Rs.150 Crores from the different investors on the assurance that the amount would be doubled in short period of time and the bonus will be paid as interest. Subsequently, all of a sudden, the company was closed and everybody in the helm of the company

affair fled away. On being investigated, the offence was subsequently registered.

3. Learned counsel for the applicant submits that the applicant was an employee of SPNJ Land Project & Developers India Limited and was not worked as a Director, he worked according to the direction of the Directors. It is further submitted that the charge sheet in this case has been filed and the charge sheet contains an order of SEBI and submits that there are certain directions were issued by SEBI and according to Section 24 of the Securities & Exchange Board of India Act, 1992 the SEBI having taken the cognizance has all the authority to punish the persons. Consequently, the separate proceeding by way of the instant charge sheet is completely illegal. He further submits that the charge sheet has already been filed and all the evidence have been collected. He further submits that the company could not repay back the amount because of the order of SEBI which led to misunderstanding and as such the report was lodged. He further submits that the applicant was also arrayed as a witness initially and therefore considering the role played by him, he may be enlarged on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail. He would submit that the charge sheet contains an order dated 07.09.2014 of SEBI whereby how much amount has been mobilized and how much amount was to be made available. Further, the company was also directed not to sell or alienate any property and not to launch any scheme or float or receive any amount from the public at large for the existing schemes. He further submits that an amount of Rs. 13 Crore were collected from 40000 investors and the balance sheet of the company

shows that further amount of 43.60 Crores were received under the head of long term borrow, therefore, considering the role played by this applicant, the role of the applicant cannot be sidelined that he was dealing with the affairs of the company and accordingly he is not entitled to grant bail.

5. I have heard learned counsel for the parties and perused the case diary.

6. The charge sheet in this case has been filed. The charge sheet contains the order of SEBI which reflects that huge amount has been collected from the public at large on the basis of different schemes which were floated by the company and some of the amount though for the period of time was refunded as an interest, but subsequently, it was stopped. The order of the SEBI would show that the communication was made to different offices but it would not be served as all the companies were closed and the Directors and employees left the scene.

7. Perusal of different statement of the investors would show that all the lifetime savings of investors were invested in the company by the different persons and in lieu thereof certain bonds were given. The order of SEBI would show that for which the money was collected the company was not authorised though it was collected. The statement of the witness would show that the money has been collected from the down trodden people by alluring them to the different schemes according to the charge sheet. Therefore, neither the direction of the SEBI was complied nor as appears the money was returned back to the investors. Consequently, the joint report was made. The applicant though claims to be employee of company but still the same is to be appreciated during trial. Even otherwise the presence of applicant being a local person, the

collection was made at his behest cannot be ruled out and the same is still to be adjudicated at the time of evidence.

8. In a result, even if the charge sheet is filed, the way the offence is committed, tempering of the evidence as the persons affected in mass appears to be less literate cannot be ruled. Considering the manner in which the offence is committed by the company along with all it's associates and the person who have been dubbed by such schemes of the company over a period of time and the role of the applicant also who was in the helm of affairs cannot be ruled out. In view of the same, I am not inclined to release the applicant on bail.

9. Accordingly, the bail application filed under Section 439 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Ashok