NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Criminal Case No.3354 of 2015

Ramnivas Pal, aged 42 years, S/o Shri Vedram Pal, R/o Village Nagarpal, PO Badshah Nagar, P.S. Seramou, Civil & Rev. Distt. Shajahanpur (South U.P.)

---- Applicant

Versus

State of Chhattisgarh, Through P.S. Pandri, Civil & Rev. Distt. Raipur (C.G.)

---- Non-applicant

For Applicant:	Mr. Kishore Bhaduri and Mr. Devershi Thakur, Advocates.
For Non-applicant:	Mr. Ramakant Mishra, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

CAV Order

14/08/2015

1. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail during trial in connection with Crime No.242/2011 (Criminal Case No.17102/2014 pending in the Court of Chief Judicial Magistrate, Raipur) registered at Police Station Pandri, Raipur, for the offence punishable under Sections 420, 406, 409, 468, 471, 120B of the IPC, 3, 4 and 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978.

2. Case of the prosecution, in brief, is that the accused persons launched a website namely www.speakasia.com in the Internet and publicized that on deposit of Rs.11,000/- per month as registration fees, the depositor would get income of Rs.4,000/- per month. It is further case of the prosecution that attracted by the said advertisement, 5,000 persons invested Rs.150 crores and thereafter, the accused persons transferred the said amount to the foreign bank and also closed the said website. Allegation against the present applicant is that he prepared the binary plan of the said company

SPEAKASIA. Further case of the prosecution is that the company SPEAKASIA is neither incorporated in India nor is registered with Reserve Bank of India as a non-banking financial company and, therefore, the inception of the company was intended for committing fraud in India. Thus, an offence against all the Directors and persons involved is registered under the aforesaid Sections.

3. Learned counsel for the applicant submits that the applicant is an Electronic Engineer working with Aptech Computers which is the subsidiary company of Seven Rings and Seven Rings is a multinational company. Services of the applicant were hired by SPEAKASIA for computerization and checking of binary plan prepared by the Directors of the said Company. Learned counsel further submits that the applicant has only checked the binary plan and translated the same into electronic mode so that an individual can have access in the said binary plan from his home through computers. Learned counsel also submits that the applicant was neither in the payroll of SPEAKASIA nor had worked as an agent in any manner for SPEAKASIA. The applicant is in jail since 7-8-2014. No seizure has been made from the applicant so as to connect him with the offence in question. The only evidence against the applicant is statement in the form of questionnaire and statement under Section 27 of the Evidence Act in which neither any fact is discovered nor any object is produced leading to such discovery as such, he deserves to be released on bail.

4. Per contra, learned State counsel opposes the bail application and submits that SPEAKASIA is a Singapore based foreign company and in order to transact business in India, it is required to obtain prior permission under Section 45-IA of the Reserve Bank of India Act, 1934 from the Reserve Bank of India. The Reserve Bank of India in its memo dated 3rd November, 2011 has clearly informed to the investigating agency that SPEAKASIA has not

taken any such permission to transact its business, even SPEAKASIA is not registered in the Ministry of Corporate Affairs, Government of India as a company under the provisions of the Companies Act, 1956. Sections 3, 4 and 6 of the Prize Chits and Money Circulation Scheme (Banning) Act, 1978 are clearly attracted in the present case. Learned State counsel further submits that the applicant has facilitated SPEAKASIA to undertake business by preparing the binary plan knowing fully well that SPEAKASIA is a Singapore based foreign company and it cannot transact its business without having permission under the provisions of the Reserve Bank of India Act, 1934 and without being registered with the Government of India under the provisions of the Companies Act, 1956. He would also submit that the memorandum statement of the applicant recorded under Section 27 of the Evidence Act cannot be said to be inadmissible at the time while considering the application for bail. The applicant has prepared the binary plan and portal at the instance of Manoj Sharma who is Director of SPEAKASIA. In the memorandum statement, the applicant has admitted the possession of cash and property to the tune of Rs.7-8 crores and as such, he is not entitled to be released on bail.

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

6. Taking into consideration the nature and gravity of offence, the manner in the applicant is said to have prepared binary plan for SPEAKASIA company which is not registered under Section 45-IA of the Reserve Bank of India Act, 1934, for conducting non-banking activities and the said binary plan facilitated the said company which is a Singapore based foreign company to recover crores of rupees from the innocent investors through the scheme advertised through their website www.speakasia.com which is an offence punishable under Sections 3, 4 & 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978, read with Sections 420, 406, 409, 468, 471 &

120B of the IPC, and taking note of the severity of punishment prescribed for the aforesaid offences, I am fully satisfied that this is not a fit case for grant of regular bail to the applicant. Consequently, the application under Section 439 of the CrPC filed on behalf of the applicant, is rejected.

Sd/-
(Sanjay K. Agrawal)
Judge

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