HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 142 of 2016

Ahsan Ali Qureshi S/o. Late Shri Nisar Ali Qureshi, Aged about 42 years, R/o. 414/17 Bhagwan Gairi Aligarh 202112, Uttar Pradesh

---- Applicant

Versus

State of Chhattisgarh Through the Police Station Kotwali, District Dhamtari (C.G.)

---- Respondent

For Applicant	:-	Mr. Awadh Tripathi, Advocate
For Respondent/ State	:-	Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

23/02/2016

1. Apprehending arrest in connection with the Crime No. 206/2015, registered at Police Station Kotwali, District – Dhamtari (C.G.) for the offence punishable under sections 420/34 of Indian Penal Code. The applicant has filed this application under Section 438 of Cr. P. C. for grant of anticipatory bail.

2. Case of the prosecution, in brief, is that the applicant was the Director of Al Hamad Social Welfare Society (AHSWS). This society through it's director appointed different callers whereby different phone calls were made to the persons to deposit the money in their company, in turn, they were assured by various schemes to the depositors to return the money with assurance of allured healthy return schemes and insurance policy and other benefits and it was also assured to the depositors that the amount would be doubled within short time. According to the complaint, different agents were appointed at the

different place at India including in the State of Chhattisgarh and one Devendra Singh Thakur was appointed at Chhattisgarh region for collection of amount and deposit the money in the account of the company, in lieu of the schemes so floated. Subsequently, the amount was collected from the depositors, and the money was deposited in the account of the company. The persons who used to collect amount from depositors were being paid salary and commission by this applicant. Further, it is the case of the prosecution that in order to open account, fake I.D. and other documents were prepared by Dr. Ram and on the basis of that different accounts were opened in different banks i.e. H.D.F.C., S.B.I. and P.N.B at different place of the country. Therefore, the applicant has committed an organized crime and collected money from the different persons. Thereby, the offence is committed.

3. Counsel for the applicant would submit that the applicant was the Director of Al Hamad Social Welfare Society (AHSWS) and the society is engaged in welfare activities, consequently, different amounts were deposited in the account of the company. Counsel for the applicant further submits that it is not the case of prosecution that the applicant has allured the different depositors to deposit the amount in the account. Consequently, no criminality can be attributed to this applicant. He further submits that at present in the account of the applicant Rs. 40,10,189/- is parked and according to the prosecution Rs. 26,15,944/- was deposited in the account of the applicant. He further submits if any amount is forcefully deposited in the account the applicant then in such case he can not be held liable for criminal Act. It is further submitted that the applicant is ready to give back the amount at any time.

4. Per contra State counsel opposes the prayer for grant of bail and submits that the applicant being the director of the company has floated

schemes and allured different persons through their agents and collected the money in their account. He further submits that the applicant is the mastermind who has committed the crime, therefore, the amount has been siphoned into the account. He further submits that on the basis of fake I.D. the accounts were opened and there are total 14 accused persons, 9 accused persons have been arrested and the 5 accused persons are still absconding and the present applicant is still to be arrested, therefore, the applicant should not be given the benefit of anticipatory bail.

5. Perused the case diary. Perusal of the case diary also the contains the statement of the account of Al Hamad Social Welfare Society (AHSWS). In such copy of account and the applicant has been shown as the account holder and the different amounts have been deposited in the account. The statement and the evidence collected and the case diary would show that at the instruction of the applicant different agents were appointed and they used to collect the amount for which they were assured. Perusal of the case diary further shows that two companies in the name of Wealth Gain Solution were also floated. Considering, the nature of allegation and the role played by this applicant and the way the offence has been committed, it appears that organized crime has been committed by the applicant, therefore, it is not the case where the benefit of section 438 of Cr.P.C. can be extended to the applicant as primafacie it appears that custodial interrogation may be required in this case. Therefore, this Court is of the opinion, that it is not a fit case where the benefit of anticipatory bail can be extended to the applicant.

5. Accordingly, the anticipatory bail application is rejected.

Sd/-

(Goutam Bhaduri)
JUDGE

santosh