HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2747 of 2016

1. Smt. Reebha Shrivastava, W/o Shri Nitin Shrivastava, Aged About 36 Years, R/o House No. 6, Dinesh Housing Complex, Maitri Vihar, Near Shiva Public School, Bhilai, District Durg, 490023, Chhattisgarh, India, P.S. Supela, District Durg, Chhattisgarh.

2. Shri Nitin Shrivastava, Aged About 36 Years, S/o Satyendra Lal Shrivastava, R/o House No. 6, Dinesh Housing Complex, Maitri Vihar, Near Shiva Public School, Bhilai, District Durg, 490023, Chhattisgarh, India, P.S. Supela, District Durg, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through Police Station Supela, District Durg, Chhattisgarh.

---- Respondent

For applicants - Shri Ramakant Gaur and Shri Vimlesh Bajpai, Advocate.
For Respondent/State – Shri Satish Gupta, G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

26/07/2016

1. The applicants have preferred this application for grant of bail as they are arrested in connection with Crime No.596/2015 registered in Police Station Supela, District-Durg (C.G.) for offence punishable under sections 420, 409, 120-B/34 of Indian Penal Code r/w Section 45 of RBI Act u/s 3, 4, 5, 6 of Chit Fund Act.

2. As per the prosecution case one company namely Yash Green Real Estate Private Limited collected amount of Rs.21,86,34,016/- from various investors promising to double the amount with higher rate of interest and the said amount was collected without sanction of the Reserve Bank of India or SEBI. Subsequently, amount was not paid and all the account of the company was closed. Thereby, offence is committed.

3. Learned counsel for the applicants submits that applicant No.1 Smt. Reebha Shrivastava was not active director and she is only wife of

applicant No.2 Nitin Shrivastava who was in the helm of affairs of the company. It is contended that under Section 58-A of the Companies Act, 1956 deposits are permissible. It is stated that the deposits were made in the year 2008 and in turn it was invested in landed properties, however value of the properties crashed, therefore company could not revive itself. He further submits that applicant No.1 Smt. Reebha Shrivastava has neither signed any single document nor any active role was assigned to her. It is further submitted that charge sheet has been filed and no further evidence is necessary, therefore reliance was placed in case of **Sanjay Chandra Vs. Central Bureau of Investigation** reported in **(2012) 1 SCC 40** and would submit that according to the law laid down by the Hon'ble Supreme Court the applicants may be enlarged on bail.

4. Learned State counsel opposes the prayer for grant of bail and would submit that applicant No.1 Smt. Reebha Shrivastava is the wife of applicant No.2 Nitin Shrivastava who was also director and the bail application of the other directors have been dismissed by the coordinate bench of this court in M.Cr.C. No.768/2016 on 1/03/2016 and M.Cr.C. No.1938/2016 on 11/04/2016 and case of the applicants is not better than persons whose bail applications have been rejected. It is submitted that two of the properties were transferred in the personal name of applicant No.1 Smt. Reebha Shrivastava by the company and documents of five properties in the name of company were seized from the possession of Smt. Reebha Shrivastava and the applicants were in the helm of affairs of the company, therefore applicants may not be released on bail.

5. Perused the case diary and the documents. Case diary shows that applicants were directors alongwith others in the company. The company with an assurance to repay back the amount with high rate of interest collected amount from the poor down trodden people, further failed to

repay the same. Consequently, in organized manner crime has been committed. Rejection order of the other directors were also examined which shows that bail application of the similarly placed co-accused have been dismissed. Taking into consideration facts and circumstances of the case and also role played by the applicants who were in the helm of affairs of the company and the company had collected money from large number of depositors who were poor down trodden on the pretext and allurement to double the amount with high rate of return but they were defrauded as no payment was made on maturity.

6. Therefore, evaluating the gravity of accusations and considering the stakes of the small depositors as against the company people, reasonable apprehension of witnesses being influenced cannot be ruled out. Further evaluating the position and standing of the accused as against the depositor witnesses, it cannot be equated which raises presumption of tampering of the witnesses and role of the applicants cannot be alienated or insulated at this stage. Therefore considering the fact, the way the organized offence has been committed and different amounts have been collected from the down trodden people, this court is not inclined to release the applicants on bail.

7. Accordingly, the bail application is dismissed.

Certified copy as per rules.

Sd/-

(Goutam Bhaduri)

JUDGE

gouri