NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C.(A) No. 1233 of 2015

1. Keshav Jaiswal, S/o. Shri Chhote Lal Jaiswal, aged about 37 years, R/o. Behind Jain Mandir, Mohanpara, Akaltara, Police Station Akaltara, District – Janjgir-Champa (C.G.)
2. Pradeep Jain, S/o. Nand Kishore Jain, aged about 40 years, R/o. Gondpara, P.S. - City Kotwali, Bilaspur (C.G.)

----Applicants

Versus

1. State of Chhattisgarh, through : Police Station – Civil Line, Bilaspur District – Bilaspur (C.G.)

---- Respondent

For Applicants : Mr. Rakesh Pandey, Advocate

For Respondent/State : Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

16/02/2016

1. Apprehending arrest in connection with Crime No.649/2015 registered at Police Station- Civil Lines, Bilaspur, District – Bilaspur (C.G.), for offence punishable under Section 409, 420, 120B read with Section 34 of Indian Penal Code, the applicants have preferred this application for grant of anticipatory bail.

2. Case of the prosecution, in brief, is that a report was made by Kunji Lal Khande, retired Forest Guard against Sukhlal Sahu, Amrit Das Mahant, and the Directors of company i.e. the Pulse Gold Real Estate India Company that at the instance of the company, he had deposited amount of Rs.5.00 lakhs being his retiral benefits in the scheme of the company on the assurance that he would receive back the amount with double and triple within five years of gap. After deposit of

amounts, certain bonds were issued, however, subsequently as promised neither the amount has been returned by the company as per promise nor the plot was given. Therefore, on the report, so lodged, investigation was carried out. During the course of investigation it came to fore that total 2749 persons have deposited the amount in the company as per the promise extended by the company so as to double the amount and thereby huge amount of Rs.4 to 5 crores and more was collected and subsequently neither the amount was returned nor the plot was given. Thereby the offence is committed.

3. Learned counsel for the applicant would submit that the applicant No.1, Keshav Jaiswal had resigned from the company on 28.02.2013 and subsequently a letter was addressed to Rajesh Tripathi one of other director on 27.05.2013. Likewise, the applicant No.2, Pradeep Jain had sent his resignation on 22.11.2012 from the directorship of the company and further on 24.11.2012 sent an affidavit to Rajesh Tripathi, the other directors, wherein he informed that he has resigned from the company. He would further submit that the entire affairs of the company were being managed by the Rajesh Tripathi. He would further submit that according to Section 168 of the Company Act, after the director has resigned from the company, criminal liability can not be further extended over the director and the report herein was made on 17.10.2015. He would further submit that no wrongful gain has been made by the applicants and in the complaint, the names of the applicants are also absent. He would further submit that charge-sheet in this case has been filed and the investigation having been done, therefore, the applicants may be extended the benefit of anticipatory bail.

4. Per contra, the learned State counsel opposes the prayer for grant of bail and would submit that both the applicants were the directors of the company allured different depositors and collect the amount to return it with a promise to double within short span of time and also promised to give the plot. Subsequently having not been done, with oblique intention the company has collected the amount from the different middle class and down trodden people. He would further submit that amount has been collected from 2749 persons or more and according to the records, certain purchases were also made, wherein these applicants have played active role. He would further submit that purchases have been made on 24.07.2012 and 03.12.2012 and therefore, he submits that considering the backgrounds of this case, the applicants may not be extended the benefit of anticipatory bail.

5. Perusal of the FIR would show that FIR was registered against five persons. The documents filed alongwith the charge sheet shows that the amount has been collected from the different stakeholders under the different scheme with a promise as per plan that the money invested in the five years would be doubled and in the six years, it would be tripled and further commission would also be paid. The document would also show that all of a sudden, the company was closed and thereafter, lock of the company was broke open by the police and certain documents were seized. Perusal of the statement of Kunjilal Khande, who is retired forest guard would show that he was assured to be given back the amount with double in five years and further it was also assured that he would be paid commission. Charge-sheet also shows that as many as 2749 persons have deposited the amount. Though the memorandum of association contemplates that

company was meant for development of urban land and improvement of the land but deviating from it money was collected from the different down trodden people with different promises, which prima-facie appears to be illegal. Therefore, evaluating the gravity of the accusation and considering the stake of the small depositors as against the company people, reasonable apprehension of witnesses being influenced can not be ruled out. Further evaluating the position and and standing of the accused as against the depositor witness, it can not be equated which raises presumption of influencing of the witness. The applicants are still absconding and the charge-sheet has been filed, therefore, considering the gravity of the offence, the way the organized offence has been committed and different amount has been collected from the down trodden people, it can not be stated that custodial interrogation of the applicants may not be required and it is not a case, where the provisions of Section 438 of Cr.P.C. can be extended. Therefore, this Court is not inclined to grant anticipatory bail to the applicants.

6. Accordingly, the anticipatory bail application is dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Balram