COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C. (A) No. 97 /2016

Fulchand Bise, Aged about 67 years, S/o. Mohlal Bise, R/o. 194, Dr. Ambedkar Nagar, Indore, District Indore (M.P.).

---- Applicant

Versus

State Of Chhattisgarh, Through the Station House Officer, Police Station-Champa, District Janjgir-Champa (C.G.).

---- Respondent

For Applicant	:	Ms. Sharmila Singhai, Advocate
For Respondent	:	Mr. Gary Mukhopadhyay, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

01/03/2016

1. Apprehending arrest in connection with Crime No.189/2015 registered at Police Station- Champa, District Janjgir-Champa (C.G.) for the offence punishable under Section 420/34 of Indian Penal Code, the applicant has preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.

2. As per the prosecution case, in brief, the applicant is one of the Director of the Company namely Vinayak Homes & Real Estate Limited established at Champa and thereafter allured the down trodden people and collected money with an assurance to double the same within a short period of time and after collecting money from the people, all of a sudden, the office of the Company was closed; thereby the offence has been committed.

3. Learned counsel for the applicant would submit that the applicant is 67 years old person and he is a resident of Indore. She further submits that the applicant was not involved in day to day affairs of

the Company and at the time when the offence has been sought to be committed on 26.03.2014, the applicant was not a Director. It is further submitted that the applicant is suffering with mental disorder by depression, therefore, he may be enlarged on bail.

4. Per contra, learned State counsel & learned counsel for the Objectors vehemently opposes the prayer for grant of anticipatory bail. It is submitted that the Company was floated in the name of Vinayak Homes & Real Estate Limited with an assurance to double the amount within a short period of time and the amount was collected. Consequently, few money from the down trodden people were collected and all of a sudden the Company was closed; thereby the money of the villagers were siphoned away and if the applicant is enlarged on bail, the applicant may tamper the evidence.

5. Perused the case diary and the documents. As per the information from the Ministry of Corporate Affairs, the applicant was appointed as Director of the Company on 30.09.2011 and the original date of appointment is stated to be 02.12.2010. Perusal of the statement of different persons who deposited the amount would show that the Company was opened through its agents and different amounts were deposited in the Company under different schemes with an assurance the money would be doubled within a short period of time, however, the money was not paid. Consequently, the report was made by few of the depositors.

6. Taking into the facts, statement of depositors and documentary evidence, it appears that the organized crime has been committed by the applicant along with the other Directors. This fact also cannot be ignored that the persons who have deposited the amount, they are down trodden people and the status of the applicant cannot be compared with that of the persons who have

deposited the money, thereby, the chance of tampering the evidence cannot be ruled out. Therefore, I am not inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant, as perusal of the case diary would indicate that it is not a case wherein it can be assumed that custodial interrogation may not be required.

7. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Ashok