HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 77 of 2016

Archana Singh, wife of Arvind Singh Parihar, aged about 40 years, resident of House no.B-6, Pauradhar, Post Office Jhimar Colliery, Police station Ramnagar, Civil and Revenue District Anuppur (M.P).

… **Applicant**

Vs.

State of Chhattisgarh, through Station House Officer, Police Station Nawagarh, Civil and Revenue District Janjgir, Champa (C.G).

… **Respondent**

For the applicant : Mrs. Fouzia Mirza, Advocate.
For the Respondent : Mr. Gary Mukhopadhyay, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

17.02.2016

1. Apprehending arrest in connection with Crime No.231 of 2014 registered at Police Station Nawagarh, District Janjgir Champa (C.G) for the offences punishable under section 420/34 IPC, the applicant has filed this application u/s 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, a report was lodged by the complainant that a Company named Super India Marketing Private Limited floated certain scheme and one Sammelal was working as agent for the said Company. According to the Scheme, different villagers were asked to deposit an amount of Rs.1600/- and were provided with a CD it was assured that after 18 months, they would be paid Rs.3,20,000/-. It was further assured that to receive the amount, an account has to be opened in State Bank of India and the amount would be directly credited to their accounts. Thereafter certain amounts were

collected from different depositors and CDs were provided. Subsequently cheques were given and when the cheques were deposited in the Bank, it was found that no account was existing in the name of such Company and the amounts could not be paid to the depositors.

3. Learned counsel for the applicant submits that only bald oral allegations have been made about the fact that on deposit of Rs.1600/-, after 18 months Rs.3,20,000/- would be paid and it is highly improbable to allure someone to make deposit on such promise since in absence of support of documentary evidence by the oral statement, the allegations are far-fetched. It is further submitted that against few of the accused, the charge sheet has been filed and the Company has compromised the matter with the complainants. She relied on certain documents annexed with the bail application vide Annexure A/6 and submits that the complainants have filed applications to compromise the issue and for compounding the offence before the court below. It is further submitted that the applicant who was one of the director was not managing the affairs of the company, therefore, no criminal liability can be attributed to the applicant. She further submits that on payment of Rs. 1600/- the CDs were supplied to the complainant(s) with loaded software, therefore, on payment having been made, goods were supplied and no offence has been committed. It is also further submitted that the CDs were purchased by the depositors in the year 2009 and the reports were made in 2014, therefore, no offence is made out.

4. Per contra, learned State Counsel opposes the prayer for grant of bail.

5. As per the evidence primarily collected by prosecution, it would reveal that different villagers were asked to deposit the amounts in the Company and the Company in turn assured the depositors

to pay the amount of Rs.3,20,000/- and certain CDs were provided. Further certain cheques were also issued as part-payment of Rs.720/- but ultimately it was found that neither the account was existing nor such amount was credited to the account.

6. Perused the charge sheet filed against Sammelal, who is one of the co-accused who has been arrested. This applicant is still absconding. Perusal of statements of few of the depositors would show that they were allured by the Company to purchase a CD of Rs.1600/- and in case of purchase of CD, they were further assured that they would be paid an amount of Rs.3,20,000/- after 18 months. The charge sheet which is filed against co-accused Sammelal also contain few of cheques drawn on S.B.I., wherein certain amount of Rs.720/- has been purported to be paid. It is the case of prosecution that the amount was not credited to the account of beneficiaries and the primary statements and evidence collected would show that different amounts were collected from different villagers and in lieu thereof CD was given.

7. The argument which is advanced by the applicant that in lieu of payment of amount the CDs were given with uploaded software itself goes to indicate that from the very inception of receipt of amount, the organized crime has been committed. It is difficult to understand that the kind of persons who had deposited the amount with the Company appears to be downtrodden people and are mostly villagers. Therefore, providing them a CD with uploaded software was hardly of any benefit to them. The applicant is still absconding and the charge sheet has been filed against co-accused Sammelal and few others.

8. Considering the the way in which the offence has been committed and further taking into statements of witnesses, the

role of the applicant cannot be stated to be a silent spectator as prima facie it appears that she was the director of the Company. Thus the role of this applicant being literate person and being in the helm of affairs of the Company cannot be ignored. So considering the plight and position of the depositors as against this applicant, if the the applicant is released on bail, tampering of evidence cannot be ruled out.

9. Thus taking into totality of the facts and circumstances of the case and statements of witnesses I am of the opinion that allegations have also been attributed to this applicant which goes to show that the role of the applicant was not limited and organized crime has been committed. Therefore, I am not inclined to enlarge the applicant on anticipatory bail. Accordingly, it is rejected.

Sd/-
GOUTAM BHADURI
JUDGE

Rao