NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 888 of 2016

- Amandeep Singh Saran S/o Shri Harmandar Singh Saran Aged About 33 Years R/o Pashchim Vihar, New Delhi.

--- Petitioner

Versus

- State of Chhattisgarh Through Police Station New Rajendra Nagar, Raipur, District Raipur Chhattisgarh.

--- Respondent

For the applicant	:	Dr. N.K. Shukla, Sr. Advocate with Mr. Sunil Otwani, Advocates
For the Respondent	:	Mr. Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

13.06.2016

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 142/2013 registered at P.S. New Rajendra Nagaer, District Raipur (C.G) for the offence punishable under Section 420, 409/34, 120B of IPC & Sections 3 & 4 of the Prize Chits Money Circulation Scheme (Banning) Act, 1978.

2. As per the prosecution case, a report was made by one Rajendra Giri Goswami that he had deposited huge amount with HBN Dairies & Allied Private Limited and HBN Foods Limited i.e., @ Rs.10,000/- per month for a period of 5 years so as to get more than the double amount on maturity as promised. Subsequently when the amount was not paid, on a proceeding the SEBI had directed for payment of the amounts back to the depositors by the Company. During investigation it was found that the Company has collected

different amounts from as many as 7630 depositors with an assurance to double the same after a specified period of time but the same were not returned and further the cheques were given to 474 people for return of the amount but they were bounced. It was found that the amounts were collected by the Company from different persons on false assurance and having not been returned, the general public at large were defrauded with organized effort.

3. Dr. N.K. Shukla, Sr. Advocate assisted by Shri Sunil Otwani would submit that the charge sheet in this case has been filed and all the evidence available are in documentary nature and the SEBI has already given a direction for payment of money which was extended. It is further submitted that the allegations do not lead to substantiate an offence under the Prize Chits and Money Circulation Schemes (Banning) Act. He further submits that the applicant is in jail since 08.08.2015 and has already undergone almost 1/3rd maximum sentence, therefore, under the facts and circumstances of the case, the applicant may be enlarged on bail.

4. Per contra, learned State Counsel opposes the bail application.

5. Perused the statements and the case diary. According to the case diary, the applicant who is director of the Company and was helm of affairs for policy decision along-with other persons collected amounts from as many as 7630 persons and the cheques were given to 474 people but such cheques were dishonoured. In the order of the SEBI dated 12.02.2015 a direction is contained that in case the amount is not repaid then in such case the local police may register the criminal case against its promoters, directors and Managers, persons

in charge of the business and its schemes for offences of fraud, cheating, criminal breach of trust and misappropriation of public funds and the SEBI would make a reference to the Ministry of Corporate Affiars, to initiate the process of winding up of the Company, HBN Dairies & Allied Limited. The order also contains that SEBI shall also initiate attachment and recovery proceeding under the SEBI Act and rules and regulations framed thereunder. However, in appeal further time was extended to comply with the direction of SEBI.

6. Considering the statements of the depositors, the fact remains that till date the amounts have not been returned to the depositors. Therefore, *Prima facie,* it appears that the money was collected from large number of depositors who were poor down-trodden on the pretext and allurement to double the same within a short period but they were defrauded as no payment was made on maturity.

7. Therefore, evaluating the gravity of accusations and considering the stakes of the small depositors as against the Company people, reasonable apprehension of witnesses being infrluenced 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. Therefore, considering the gravity of offence, the way the organized offence has been committed and different amounts have been collected from the down trodden people, I am not inclined to to release the applicant on bail. It is, however, observed that the police may allow the directors for necessary meeting for negotiation of sale of property of Company inasmuch as during the hearing it was suggested that the company is

ready and willing to sell the property of Company to repay back the amounts of depositors.

8. Accordingly, the bail application is dismissed.

Sd/-
GOUTAM BHADURI
JUDGE

Rao