

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 1096 of 2016**

**Sapan Ghosh @ Swapan Ghosh**, son of late K.K. Ghosh, aged about 53 years, resident of House No.168, in front of Swarup Talkies, P.S. Mohan Nagar, Durg, Distt. Durg (C.G)... **Applicant**

**Vs.**

State of Chhattisgarh through Station House Officer Police Station Civil Lines, Raipur District Raipur (C.G). ... **Respondent**

---

|                    |   |                                               |
|--------------------|---|-----------------------------------------------|
| For the applicant  | : | Mr. Amrito Das & Mr. Varun Sharma, Advocates. |
| For the Respondent | : | Mr. Gary Mukhopadhyay, Panel Lawyer.          |

---

**Hon'ble Shri Justice Goutam Bhaduri**

**Order on Board**

**18.04.2016**

1. This is second bail application filed u/s 439 of the Code of Criminal Procedure seeking granting of regular bail to the applicant in connection with Crime No. 412 of 2014 registered at Police station Civil Lines, Raipur, Criminal Distt. Raipur (C.G) for the offences punishable under sections 420, 120-B, 34 IPC.
2. The earlier bail application was dismissed on 16.11.2015.
3. As per the prosecution case, a complaint was lodged by Dr. Neena Jain alleging that she was introduced by present applicant Swapan Ghosh and Prasit Basak to one Tarak Ranjan Manjhi and Shikha Manjhi wherein the complainant was allured to invest the amount in the Company to make it double the amount within a short period of time and subsequently, on such assurance, the complainant invested Rs.2.50 crores and power of attorney was granted of a plot and in lieu thereof, the cheques were given which were later found dishonoured.

4. Learned counsel for the applicant submits that there has been change of circumstances which took place in this case after passing the earlier bail rejection order dated 16.11.015 since the complainant herself has been examined before the Court wherein the name of this applicant is denied to have been incorporated in the written report which was made by her thereby the involvement of applicant is denied. He further submits that since the complainant has been examined in this case considering her evidence, change of circumstances took place which may be considered for the purpose of this bail. Learned counsel has further gone through the statement of complainant Dr. Neena Jain and referring to para 29, he would submit that Para 29 pertains to mentioning of name of the applicant wherein the complainant has stated that she do not remember as to who has written the name of applicant in Ex.P-1 at marked portion of 'Sa' to 'Sa' therefore, the entire case against this applicant under such statement has become diluted. It is further submitted that the entire allegations have been attributed to co-accused Tarak Manjhi and Shikha Manjhi who were the beneficiaries of the whole amount and the applicant had not received any amount and further even if it can be stretched at the most, the applicant has worked as an agent who himself has also invested the amount and insisted others including the complainant to invest the amount in the Company. He further referred to a document filed as Annexure along-with petition and would submit that the applicant himself has invested Rs.20 lakhs, therefore, the insistence was made for investment of amount. It is further contended that the applicant is in jail since 9 ½ months and the complainant in this case has been examined

who is the main witness and there are 38 other witnesses who are still to be examined. Therefore, referring to the law laid down in *(2012) 1 SCC 40 - Sanjay Chandra Vs. CBI*, he prays that the applicant may be enlarged on bail as no purpose would be served to keep him in custody.

5. Per contra, learned State Counsel opposes the prayer for grant of bail and would submit that appreciation of evidence at this stage would not proper as the complaint has been examined which has to be left to the discretion of the Court, therefore, the bail application deserves to be dismissed.
6. Perused the case diary and the statement of complainant.
7. Perusal of the document would show that complainant Dr. Neena Jain has been examined. The written report is marked as Ex.P-1. wherein at first Page, name of applicant Sapan Ghosh, was written which is marked at "Sa' to "Sa'. On further reading of the statement of the complainant at para 29, a doubt has been created by the complainant with respect to the addition of the name of this applicant. It is stated that such name was not written by her. The name appears to be made in handwriting above typing. On further perusal of statement, it appears that primarily the allegations have been made against co-accused Tarak Ranjan Manjhi and Shikha Manjhi. The statement also shows that the complainant indicated the fact that the applicant also invested some amount. It is contended that the applicant did not have any liability towards the complainant. The complainant has been examined at length before the court below.
8. Considering the statement of complainant which is placed on record and the document Ex.P-1 as also the fact that primarily the applicant was working as an agent and he also

invested certain amount in the Company and further looking to the period of detention of the applicant as he is stated to be in jail for the last 9 ½ months, without any observation on merits of the case, I am inclined to allow this bail application.

9. Accordingly, this bail petition is allowed and the applicant is directed to be released on bail on his furnishing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the trial Court. He shall also appear before the trial Court as and when directed by the said Court.

Cc as per rules.

**Sd/-  
GOUTAM BHADURI  
JUDGE**

Rao