HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 280 of 2016

Vinay Saxena A/a 40 years S/o Shri V.V. Saxena R/o C-335, Gaur Green Avenue, Indrapuram, Gaziabad, Uttar Pradesh.

---- Applicant

Versus

State Of Chhattisgarh Through P.S. City Kotwali, Dhamtari, District Dhamtari, Chhattisgarh.

---- Respondent

For applicant – Shri Surendra Singh, Sr. Advocate with Shri Rahul Diwakar and Shri P.R. Pantankar, Advocate.
For Respondent/State –Shri Sangarsh Pandey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

12/04/2016

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Crime No. 29/2015 registered at Police Station City Kotwali, District Dhamtari (C.G.) for offence punishable under Sections 420, 120 B, 34 of IPC and Sections 3, 4 & 5 of the Price Chits & Money Circulation Scheme Banning Act.

2. As per the prosecution case, applicant was one of the Director of Sai Prakash Properties Development Limited in connivance with other Directors floated the scheme and collected money from the down trodden people with a assurance to return double the amount within short period of time. The said circulation of money was being done without permission of the Reserve Bank of India and SEBI. Subsequently, when time of maturity came company was locked and all the persons responsible fled away, therefore a report was made and the investigation is being made.

3. Shri Surendra Singh, Sr. Advocate assisted by Shri Rahul Diwakar and Shri P.R. Patankar, counsels for the applicant submits that all the allegations are against Sai Prakash Properties Development Limited wherein this applicant was no way connected. It is further submitted that applicant was not

a Director as he had already resigned in the year 2011. It is further submitted that applicant was associated with Sai Prakash Finance and Advisory Limited and was not in any way connected with the Sai Prakash Properties Development Limited which is separate entity. It is further contended that according to the order of the SEBI involvement of this applicant cannot be attributed with Sai Prakash Properties Development Limited and Sai Prakash Finance and Advisory Services Limited would be entirely a different entity. He referred to document Annexure A-3 and submits that he was manager and employee of Sai Prakash Telecommunication Limited. Therefore, if Sai Prakash Properties Development Limited has defrauded people same cannot be attributed to this applicant. He further submits that FIR was made by one Channulal only allegation was made that he was not paid commission and as such it is stated that nomenclature of the company has completely misread, applicant has not committed any offence and he may be enlarged on bail.

4. Learned State counsel opposes the prayer for grant of bail. Firstly he referred to the document Annexure A-4 filed by the applicant wherein it is been stated that applicant was acting as a Executive Director for Sai Prakash Group and therefore group will collectively dominate and take into its fold Sai Prakash Properties Development Limited. Consequently, applicant cannot claim exoneration on that ground only and according to the own document filed by the applicant, the way the offence has been committed, the applicant is not entitled for grant of anticipatory bail.

5. I have perused the case diary. Charge sheet in this case has been filed. Documents filed by the applicant himself projects that applicant was working as Executive Director for the group which is stated to be collectively referred as a group. That document is signed by one of the Director of Sai Prakash Telecommunication Limited namely Puspendra Kumar Patel who is also one of the co-accused and the Director. Further memorandum of association which is filed along with the charge sheet would show that at

serial No.6. applicant shown to be one of the investor along with six Directors. Likewise article of association also contains name of applicant at serial No.6. Article of association of Sai Prakash Properties Development Limited and memorandum of association shows name of applicant as he was in the helm of managing affairs for the company. Perusal of the charge sheet and the documents filed shows that different amounts were collected from the stake holders under the scheme with assurance to double the sum within short period of time, however ultimately when maturity time came company were closed and people who had deposited the amount did not get amount back. Therefore, evaluating the gravity of the acquisition and considering the stake of small depositors as against company people as memorandum of association and article of association shows involvement of the applicant in taking decision in policy making of the company, involvement of the applicant prima facie appears to exist. Evaluating gravity of acquisition and considering stake of small investors, apprehension of witness being influenced cannot be ruled out. Further evaluating position of the accused as against depositors it cannot be equated which raises presumption of tampering of witnesses. Considering the gravity of offence, the way organised crime has been committed and different amount has been collected from the down trodden people, I am not inclined to extend benefit of anticipatory bail to the applicant.

6. Accordingly, the anticipatory bail application is dismissed.

Certified copy as per rules.

Sd/-

(Goutam Bhaduri)

JUDGE

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