NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 6583 of 2015

1. Rajesh Tripathi, S/o. B.L. Tripathi, aged about 34 years, R/o. Patli Putra Colony, Seepat Road, Bahtarai, Police Station – Sarkanda, District – Bilaspur (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, Through : Station House Officer, Police Station – Civil Line, Bilaspur, District – Bilaspur (C.G.)

---- Respondent

For Applicant	:	Mrs. Fouzia Mirza & Mr. Goutam Khetrapal, Advocates
For Respondent/State	:	Mr. Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

C A V Order

28/01/2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.649/2015, registered at Police Station – Civil Line, Bilaspur, District – Bilaspur (C.G.) for the offence punishable under Section 420, 409 & 120-B/34 of the Indian Penal Code.

2. Case of the prosecution, in brief, is that a report was made by Kunji Lal Khande, retired Forest Guard against the Director and Team Holders of the Pulse Gold Real Estate India Company that at the instance and promise of the officer's of the company, he had deposited amount of Rs.5.00 lakhs being his retiral benefits in the scheme of the company on the assurance that he received back the

amount doubled and triple in five and six years. After deposit of amounts, certain bonds were issued, however, subsequently as promised neither the amount has been returned by the company as per promise nor the plot was given. Therefore, on the report, so lodged, investigation was carried out. It is further case of the prosecution that the applicant is one of the director of the company and therefore, with all knowledge and belief offence is committed.

3. Learned counsels for the applicant would submit that the company is engaged in the development of urban land. The counsel would further submit that after the initial deposit, allotment letters were issued to the different depositors in respect of the plot and the plot were to be given in the subsequent coming years and the company after development of the plot had promised to give the same in 2017. Therefore, it can not be stated that any fraud has been committed as the year 2017 has not yet reached. They would further submit that since the allotment of the plot was to be made in future date and sale deed was to be executed subsequently after the entire plot is developed, therefore, the report so made is premature and being the director has not committed any forgery and no offence is made out, consequently prayer is made that the applicant may be enlarged on bail.

4. On the other hand, learned counsel for the State opposes the bail application and would submit that the applicant is the main director of the company. It is contended that the applicant alongwith other directors/active employees allured different people and collected the amount to return it doubled and also promised to give the plot in

future in 5-6 years. It is submitted that Pulse Gold Real Estate India Company is registered for different objects for carrying on the business of development of urban and rural immovable properties as per the memorandum of the company but instead of development of the urban land company has received the amount from the middle class and down trodden people, thereby the company virtually was in the business of money circulation by alluring the persons to deposit the amount in different scheme and thereby collected 5-6 crores from the small investors. Consequently, taking into the magnitudes of the offence, the applicant may not be enlarged on bail.

5. I have heard learned counsel appearing for the parties and perused the case diary.

6. Perusal of the FIR would show that FIR was registered against five persons. Three persons were arrested and two are still absconding. The documents filed alongwith the charge sheet shows that the amount has been collected from the different stakeholders under the different scheme with a promise as per plan that the money invested in the five years would be doubled and in the six years, it would be tripled and further commission would also be paid. The document would also show that all of a sudden, the company was closed and thereafter, lock of the company was broke open by the police. Perusal of the statement of Kunjilal Khande would show that he was assured to be given back the amount with double in five years and further it was also assured that he would be paid commission. Charge-sheet also shows that different persons have

deposited the amount. Though the memorandum of association contemplates that company was meant for development of urban land and improvement of the land but deviating from it money was collected from the different down trodden people with different promises, which prima-facie appears to be illegal. Therefore, evaluating the gravity of the accusation and considering the stake of the small depositors as against the company people, reasonable apprehension of witnesses being influenced can not be ruled out. Further evaluating the position and and standing of the accused as against the depositor witness, it can not be equated which raises presumption of tampering of the witness. Considering the gravity of the offence, the way the organized offence has been committed and different amount has been collected from the down trodden people, this Court is not inclined to release the applicant on bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Balram