

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 1970 of 2016

1. Viplaw Kumar Dey, S/o. Ranjeet Kumar Dey, aged about 54 years, aged about 54 years, R/o. Kalikapur, Sahrapara, Asansol, South Vardhman, Police Station – Asansol Vardhman (West Bengal)

----Applicant

Versus

1. State of Chhattisgarh, Through : S.H.O., Police Station – Dallirajhara, District – Balod (C.G.)

---- Respondent

For Applicant : Mr. B.P. Singh, Advocate

For Respondent/State : Ms. Shobha Kashyap, Govt Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

19/07/2016

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.150/2015, registered at Police Station – Dallirajhara, District – Balod (C.G.) for the offence punishable under Section 420/34 of the Indian Penal Code and Section 3, 4, 5 of Inami Chit Aur Dhan Parichalan Scheme (Pabandi) Adhiniyam, 1978 and Section 58-F & 10 of R.B.I. Act.
2. Case of the prosecution, in brief, is that one company Everlight Realcon Infrastructure Limited Company had opened an office at Balod and Dallirajhara, where from the company assured the different persons to deposit money with an assurance to double the same within a short period of time. Consequently, when the money was deposited, all of a sudden the company was closed and the money of the people were not returned. The said circulation and

collection of the money was without any permission of R.B.I. or SEBI. Thereby the offence has been committed.

3. Learned counsel for the applicant submits that the applicant has not opened any branch at Dallirajhara and Balod. He further submits that the amount so deposited was for 7 years and the maturity time will come after 2020, therefore, no offence is made out at present. It is further submitted that the applicant has not allured the people and the applicant has been falsely implicated in this case. It is further submitted that charge sheet in this case has been filed and the applicant is in jail since 30.11.2015, therefore, the counsel prays that the applicant may be enlarged on bail.
4. On the other hand, learned counsel for the State opposes the bail application.
5. I have heard learned counsel appearing for the parties.
6. Perused the case diary, documents and the statement of complainant, Naresh Kumar, wherein the identity of the applicant has been made clear by the complainant. Perusal of the document would show that the applicant, who is one of the director of the company and was primarily entrusted with policy making along with other persons have collected the money without the permission of R.B.I. and SEBI and huge amount was collected from down trodden people and the money was taken away. Case diary also do not contain any permission from RBI or SEBI. The argument advanced on behalf of the applicant that without the knowledge of the applicant, the company was opened at Balod can not be appreciated in view of the other argument that money so deposited

would be due after 7 years. If the applicant is resorting the plea of alibi and ignorance then in such case, the other argument is mutually destructive that money was payable after 7 years and as such the offence can not be said to have been happened. The statement and the document would show that the applicant was in the helm of affairs of the company and allured different down trodden people to deposit with the company with a promise to get return of high value. Therefore, evaluating the gravity of the accusations and considering the stakes of the small depositors as against the company people, reasonable apprehension of witness being influenced can not be ruled out. Further evaluating the position and standing of the accused as against the depositor witness, it can not be equated which raises presumption of tampering of the witness. Further similar type of offences are registered against the applicant in Dhanbad as also in Kohima, Nagaland. 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 release the applicant.

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

Sd/-
(Goutam Bhaduri)
Judge