

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.2582 of 2016**

Ramnivas Pal, aged about 43 years, S/o Shri Vedram Pal,
R/o Village Nagarpal, P.O. Badshah Nagar, P.S. Seramou,
Civil and Revenue District Shajahanpur (South U.P.).

---- Applicant**Versus**

State of Chhattisgarh, through P.S. Pandri, Civil & Revenue
District Raipur (CG).

---- Non-applicant

For Applicant	:	Shri Anjani Kumar Singh with Shri Amit Singh, Advocates
For Non-applicant:		Shri Neeraj Jain, Government Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**C.A.V. Order****08/07/2016****(1)** Heard.

(2) This is the second bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.242/2011 registered at Police Station Pandri, Raipur, for the offence punishable under Sections 420, 406, 409, 468, 471, 120-B of the Indian Penal Code and Sections 3, 4 & 6 of the Prize Chits & Money Circulation Scheme (Banning) Act, 1978.

(3) The applicant's first bail application was rejected on merits by order of this Court dated 14.08.2015 passed in M.Cr.C. No.3354/2015.

(4) Learned counsel appearing for the applicant would submit that the applicant is innocent and has not committed any offences alleged against him and he has been falsely implicated in the case. He would further submit that after the rejection of the first bail application of the applicant, there is material change occurred in the facts and circumstances of the case, more so; there are various new grounds for the purposes of the consideration of the bail of the present applicant. He would further submit that on the bare perusal of charge sheet, it is apparent that no case is made out against the applicant herein in this case. He would further submit that the registration of FIR against the applicant in Raipur is against the fundamental right as enshrined under Article 20 of the Constitution of India because for the same offence two FIR cannot be registered. The applicant is already arrested in Mumbai for the said alleged offence, thereafter there is no fresh allegation or cause of action or any overt act attributed to the applicant by the prosecution in the city of Raipur for collecting money from the alleged victims etc. Hence there is no special and peculiar circumstances is attributed to the applicant herein for the FIR registered in Raipur and no case is made out for the registering of FIR in Raipur. He would further submit that the Section 420 of IPC cannot be attracted in the case as the present applicant had

never met any of the persons and had not illegally gained any profit even as per the charge sheet. The fact and circumstances and allegations as made in the charge sheet and the status of the applicant in the said case clearly shows that no prima facie case is made out against the applicant for the offence under Sections 420, 406, 409, 468, 471, 120-B of IPC and Sections 3, 4, 6 of Prize Chit and Money Circulation (Banning) Act, 1978. He would further submit that the applicant has nothing to do with the speak Asia company in any manner except alleged checking of the binary plan and there is no valid term available as “first panelist” viz. a justification given to implicate the applicant in the present FIR, even the same is also a wrongful implication because for all such allegations the applicant is facing trial in Mumbai. He would further submit that there is no money deposited in the account of the applicant and there is no relation with the city of Raipur. It is an admitted position that the applicant has never visited the district Raipur or the State of Chhattisgarh for the alleged promotional activities of the accused company the Speak Asia. com. There is no whispering of any such allegation in the entire charge sheet and the bail application of similarly situated co-accused Ramsumiran Pal has been allowed by this Court and, therefore, applicant may be released on bail and placed heavy reliance on judgment of Supreme Court in matter of **Kalyan Chandra Sarkar Vs. Rajesh Ranjan**¹.

¹ (2004) 7 SCC 528

(5) On the other hand, learned counsel appearing for the State/non-applicants would submit that the bail was rejected on merits after filing of the charge-sheet and there is no change in the circumstances and merely on the basis of the fact that co-accused-Ramsumiran Pal has been granted bail by this Court, the applicant's second bail cannot be entertained and, therefore, the applicant is not entitled to be released on bail.

(6) In the matter of **Kalyan Chandra Sarkar** (supra), their Lordships of Supreme Court have held as under:-

“19. The next argument of the learned counsel for the respondent is that prima facie the prosecution has failed to produce any material to implicate the respondent in the crime of conspiracy. In this regard he submitted that most of the witnesses have already turned hostile. The only other evidence available to the prosecution to connect the respondent with the crime is an alleged confession of the co-accused which according to the learned counsel was inadmissible in evidence. Therefore, he contends that the High Court was justified in granting bail since the prosecution has failed to establish even a prima facie case against the respondent. From the High Court order we do not find this as a ground for granting bail. Be that as it may, we think that this argument is too premature for us to accept. The admissibility or otherwise of the confessional statement and the effect of the evidence already adduced by the prosecution and the merit of the evidence that may be adduced hereinafter including that of the witnesses sought to be

recalled are all matters to be considered at the stage of the trial”.

(7) Keeping in view the principles of law laid down by Supreme Court in Kalyan Chandra Sarkar (supra) and after hearing learned counsel appearing for the parties and taking into consideration the submissions made by learned counsel for the parties and order dated 14.08.2015 passed by this Court rejecting the bail application on merits for the reasons mentioned therein and grant of bail to Shri Ramsumiran Pal, whose first bail application was considered and allowed, in the considered opinion of this Court, would not furnish any good and valid ground to entertain this second bail application. Consequently, the second bail application deserves to be and is accordingly rejected.

(8) Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

L/-